

**N.H. Department of Environmental  
Services  
Wetlands Bureau**

**ANNUAL REPORT  
FY 2002**



JANUARY 2003

**N.H. Department of Environmental  
Services  
Wetlands Bureau**

**ANNUAL REPORT  
FY 2002**

Prepared by

Water Division  
Wetlands Bureau

New Hampshire Department of Environmental Services  
6 Hazen Drive, PO Box 95  
Concord, NH 03302-0095  
January 2003

Robert Monaco, Acting Commissioner  
Harry T. Stewart, P.E., Director, Water Division



## TABLE OF CONTENTS

	<u>Page</u>
List of Figures	ii
List of Tables	iii
List of Appendices	iii
Executive Summary	v
1.0 Overview	1
1.1 Purpose of Report	
1.2 Introduction	
1.3 Program History	
2.0 Wetlands Bureau Management Strategy and Accomplishments	5
3.0 Wetlands Program Organization, Staffing and Funding	9
3.1 Wetlands Program Organization and Staffing	
3.2 Wetlands Program Funding and Budgets	
4.0 Education and Outreach	15
4.1 Presentations and Workshops	
4.2 Website Improvements	
4.3 Publications and Forms	
5.0 Wetlands Permitting Program	19
5.1 Types of Permit Applications	
5.2 Major Public Works and Transportation Projects	
5.3 Wetlands Impacts from Permitted Projects	
5.4 Compensatory Mitigation for Impacts from Permitted Projects	
6.0 Compliance and Enforcement	27
6.1 SFY 2002 Compliance Activity Summary	
6.2 Shoreline Structures Compliance Study	
7.0 Environmental Restoration Projects	31
7.1 Wetlands Restoration Projects	
7.2 Selective Dam Removal for River Restoration	
8.0 Regulatory and Policy Improvements	35
8.1 Legislation	
8.2 Rulemaking	
9.0 Wetlands Council	39
9.1 Wetlands Council Purpose and Membership	
9.2 Wetlands Council Activities During SFY 2002	

## LIST OF FIGURES

<u>Figure</u>	<u>Description</u>	<u>Page</u>
3.1	Wetlands Bureau Structure	10
3.2	Wetlands Bureau Organization Chart	11
3.3	Wetlands Bureau Staff Effort by Program Category	12
3.4	Wetlands Bureau SFY 2002 Actual Expenditures	12
3.5	Wetlands Fee Account: Annual Revenue, SFY93 to SFY03 (estimated)	14
3.6	Wetlands Fee Account: Revenue and Expenses, SFY93 to SFY03 (estimated)	14
3.7	Wetlands Fee Account Balance, SFY93 to SFY03 (estimated)	14
4.1	Audience for Outreach Efforts	15
4.2	Wetlands Permits Web Query	18
5.1	Types of Wetland Applications & Notifications (SFY 2002)	20
5.2	Wetlands Bureau, Permitting Section Total Review Queue by Month for SFY 2002	21
5.3	Wetlands Bureau Permitting Workload Age, by Month	21
5.4	Dredge or Fill Impacts to Wetlands by Type of Resource Impacted	25
5.5	Permitted Impacts by Type of Activity	25
5.6	Permitted Wetlands Impacts and Mitigation	26
6.1	External Requests for Investigation of Possible Wetlands Violations SFY 2002	27
6.2	Alleged Violations from Investigation Requests	27
6.3	Compliance Status of Shoreline Structures Projects Inspected in 2001	29

## LIST OF TABLES

<u>Table</u>	<u>Description</u>	<u>Page</u>
1.1	Wetlands Program Chronology	3
2.1	Other Significant Wetlands Program Improvements (1998-2002)	7
3.1	Wetlands Program SFY 2002 Budget by Funding Category	9
4.1	Major Workshops Presented by the DES Wetlands Bureau in SFY 2002	16
4.2	Wetlands Bureau Outreach Presentations in SFY 2002	17
5.1	Wetlands Permit Application Project Classification	19
5.2	Status of Significant Transportation and Dredge Projects with Applications for Wetlands Permits, November 2002	23
7.1	Wetlands Restoration Projects, SFY 2001	33
7.2	New Hampshire River Restoration Task Force Member Organizations	34
8.1	Wetlands and Shoreland Protection Act Legislation Enacted in the 2002 Session	35
8.2	Status of Proposed Wetlands Bureau Rules (October 2002)	37
9.1	Wetlands Appeals	40

## LIST OF APPENDICIES

<u>Appendix</u>	<u>Description</u>
A	Wetlands Bureau Management Strategy
B	Outreach Materials- Fact Sheets
C	Forestry and Seasonal Dock Notification Forms
D	Legislation Passed in 2002 Session
E	The New Hampshire Wetlands Council and Its Functions



## EXECUTIVE SUMMARY

This report provides information on the history, accomplishments, and challenges of the Department of Environmental Services (DES) Wetlands Program, with a focus on activities that occurred during State Fiscal Year (SFY) 2002 which includes the period from July 1, 2001 to June 30, 2002, and midway through SFY 2003.

Over the last several years, Wetlands Program performance has significantly improved and the staff focus is on further improvements as outlined in this report. In January 2002, a Wetlands Bureau Management Strategy was developed to establish clear integrated goals and action items to continue long-term program improvement. Activities recently implemented towards these goals include:

- To educate New Hampshire landowners, contractors, municipalities, businesses, consultants and the general public about the value of wetlands and about the Wetlands Program's jurisdiction and the procedures and rationale behind the federal and state regulations

In SFY 2002, The DES Wetlands Bureau conducted education and outreach activities to over 5,000 people including professionals, contractors and the public.

- To ensure timely, consistent and technically appropriate decisions on permit applications and compliance issues

In SFY 2002, the Wetlands Bureau received 2267 applications and notifications, of which 98% were approved and 2% were denied or not issued a permit. DES has also improved procedures to streamline permitting decisions for major public works projects which recently have been successfully implemented for a number of projects including the Cocheco River dredge in Dover, Langley Parkway in Concord, Manchester Airport Access Highway, Keene Bypass, and Troy Bypass reconsideration decision.

- To improve turnaround time for Bureau review of new applications

By implementing streamlined measures and tighter management controls and adding staff, application turnaround time has been reduced substantially. On June 30, 2002, only 23% of in-house applications were older than 60 days with none older than 120 days--down from 35% and 11%, respectively, in July 2001. This trend has continued into SFY 2003.

- To continue to improve and streamline the wetlands rules for fairness, accessibility, and consistency

DES has a number of rules in various steps of completion to streamline permitting processes, such as permit by notification for specific types of smaller projects. Also, five bills became law during the 2002 legislative session which improved the wetlands and shoreland protection programs.

- To improve compliance with the wetlands and shorelands laws and with permit conditions issued by the Department

An initiative to screen, prioritize, and resolve the enforcement case backlog, which had built up to approximately 3,000 cases, has resulted in a backlog reduction to around 1800 cases by October 2002. Streamlining measures and an improved prioritization system are now being utilized to better enable DES to resolve these cases on a priority basis. DES has also implemented a program of follow up inspections on shoreline structure and boathouse projects. DES found that over 20% of the projects were not built in accordance with approved plans and has followed up with permit holders to achieve compliance.

- To improve customer service

DES initiated a project to provide “real time” public access to information on the status of wetlands applications and permitting decisions ([www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands), “Wetlands Permit Query”). The Wetlands Program also responded to more than 400 incoming e-mail messages sent to the “wetmail” address, [wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us), and provided assistance on “walk-in” requests by assigning staff specifically to this activity.

The Wetlands Bureau also participated with other state agencies and volunteers in a number of projects on the Seacoast and inland rivers to restore wetlands impacted years ago by road construction or other activities. For example, DES played a key role in the restoration of the Little River Salt Marsh, a tidal wetlands ecosystem. Two DES staffers were among the recipients of a Coastal America Award for this project. DES’s partners on these projects have included the New Hampshire Coastal Program, UNH’s Jackson Estuarine Laboratory, Ducks Unlimited and several federal agencies.

In SFY 2002, the Wetlands Bureau operated on a total budget for 36 positions of approximately \$1.6 million with about 48% of funding derived from the wetlands fee account, 24% from state general funds and 28% from federal funds. Expenses from the wetlands fee account exceeded revenues by over \$300,000 drawing the account balance down to less than \$100,000 on June 30, 2002, the lowest balance in over 10 years. This fund is at a critical level and the performance improvement trends noted above are not sustainable beyond SFY 2003 unless revenues are stabilized at higher levels to support existing full staff levels.

While progress has been made, there is still a lot to do to improve the Wetlands Program. DES will continue to focus on the accomplishment of activities within the framework of the management strategy for long-term program improvement.



## **1.0 Overview**

### **1.1 Purpose of Report**

The purpose of this report is to provide information on the history, accomplishments, and challenges of the Department of Environmental Services (DES) Wetlands Bureau, with a particular focus on activities which occurred during State Fiscal Year (SFY) 2002 and midway through SFY 2003.

### **1.2 Introduction**

New Hampshire's wetlands protection strategies continue to evolve, recognizing both the need to balance economic development with environmental impacts on resources including wetlands. These need not be competing interests when:

- State and federal criteria are followed to first avoid, then minimize, then mitigate.
- Well-conceived compensatory mitigation programs are in place for cases where wetlands impacts are unavoidable.
- Decisions on permit applications and compliance issues are timely and appropriate.

This is the continuing challenge for the DES Wetlands Bureau.

New Hampshire has approximately 400,000 to 600,000 acres of nontidal wetlands and 7,500 acres of tidal wetlands (about 6 to 10 percent of the land area of the state). Since the 18<sup>th</sup> century, about half of the tidal wetlands and about one-tenth of the nontidal wetlands have been destroyed. During the high growth period between 1997 and 2000, more than 400 acres of wetlands were filled or otherwise impacted due to permitted activities.

Wetlands provide many valuable functions, including:

- Protecting the quality of water in our lakes and streams. By acting as filters, they retain sediments with contaminants such as metals or the nutrient phosphorus.
- Reducing peak flood flows and, consequently, flood damage downstream by storing large quantities of rainfall.
- Maintaining streamflows by slowly discharging groundwater during dry periods.
- Providing nurseries for finfish and shellfish, particularly in estuarine and coastal marshes which are among the most productive areas in the world. Tidal wetlands serve as spawning and nursery areas for juvenile fish, including those that are commercially harvested.
- Buffering wind and waves.
- Providing habitat for wildlife. More than half of the rare, threatened or endangered plant and animal species in New Hampshire depend on wetlands.

Since most of the wildlife species that inhabit wetlands require the adjacent uplands to survive, these areas are also critical to maintain the functions and values of wetlands as natural habitat.

### **1.3 Program History**

The history of New Hampshire's wetlands program, dating back to 1967 when the state's original wetlands law was adopted, is briefly summarized in Table 1.1. This table outlines the program evolution which has been driven over time principally by changes in federal and state statutory and regulatory frameworks, state economic conditions, and demographics. In general, permitting decisions have become increasingly more complex for a number of reasons:

- Site development is more difficult because the "easy" sites have already been developed, particularly in the southern tier.
- Property values have increased resulting in increased carrying costs for developers and increased pressure to make faster permitting decisions.
- During development booms, the volume of permit applications and compliance cases increases placing extraordinary demands on the program.

**TABLE 1.1****Wetlands Program Chronology**

<b>Year</b>	<b>Milestone</b>
<b>1967</b>	Wetlands law enacted to address tidal wetlands and surface waters. Originally enacted as RSA 483-A; authority given to NH Port Authority.
<b>1969</b>	Expanded jurisdiction of wetlands law to fresh water wetlands and surface waters. Authority given to Special Board (representatives of state, county and municipal government).
<b>1972</b>	Federal Cleanwater Act became law including Section 404 which provides the basis for federal jurisdiction over wetlands.
<b>1979</b>	Special Board changed to Wetlands Board.
	Amended wetlands law to provide for the designation of prime wetlands by municipalities.
<b>1986</b>	Authority given to Wetlands Board to levy administrative fines.
<b>1987</b>	Wetlands Board administratively attached to the newly created Department of Environmental Services.
<b>1989</b>	Established notification process for forestry and timber harvesting activities.
<b>1990</b>	Revised fee structure for permits to be based on amount of proposed impact to wetlands.
<b>1991</b>	Adopted 1989 Federal Corps of Engineers Manual for Identifying and Delineating Wetlands.
<b>1992</b>	Established NH General Programmatic Permit with US Army Corps of Engineers.
	Amended rules to establish criteria for compensatory mitigation for significant impacts to prime wetlands and revised standards for the designation of prime wetlands.
<b>1993</b>	Established rules for minimum impact agriculture activities.
<b>1994</b>	Established rules for expedited processing of minimum impact projects.
<b>1995</b>	Established notification process for minimum impact recreational trail maintenance.
<b>1996</b>	Adopted 1987 Corps of Engineers Manual as procedure to delineate wetlands.
	Wetlands Board permitting authority transferred to DES and the Wetlands Council created as an appellate body.
<b>1999</b>	DES created Land Resources Management Program in Water Division to better integrate and coordinate development of permitting and compliance.
	Adopted rule to extend duration of permit for NH DOT projects.
	Adopted rules to establish criteria for breakwaters and limit them to Lake Winnepesaukee.
<b>2000</b>	Notification process for seasonal docks became effective.
<b>2002</b>	Proposed rules to establish a notification process for roadway and railway maintenance activities.



## 2.0 Wetlands Bureau Management Strategy and Accomplishments

In January 2002, the Wetlands Bureau drafted a management strategy that formalizes specific goals and action items for facilitating continuous improvements to the program. This strategy was implemented throughout 2002 and was finalized in January 2003 (see Appendix A). It will continue to serve as a guide for wetlands improvement efforts. The six goals contained in the strategy are summarized below along with some important activities or accomplishments that have occurred within the last year towards each goal. The section of this report which provides more detail on these accomplishments appears in parentheses after each goal.

- *To educate New Hampshire landowners, contractors, municipalities, businesses, consultants and the general public about the value of wetlands and about the Wetlands Program's jurisdiction and the procedures and rationale behind the federal and state regulations (Section 4.0)*

In SFY 2002, the DES Wetlands Bureau conducted education and outreach activities involving over 5,000 people including professionals, contractors and the public. These activities ranged from general wetlands overview programs to courses on technical issues for wetlands professionals.

- *To ensure timely, consistent and technically appropriate decisions on permit applications and compliance issues (Section 5.0)*

In SFY 2002, the Wetlands Bureau received 2267 applications and notifications of which 98% were approved and only 2% were denied or not issued a permit. DES has also streamlined and improved permitting processes for major public works projects. These improvements have recently been successfully implemented for a number projects including the permitting of the Cocheco River dredge in Dover, Langley Parkway in Concord, the Manchester Airport Access Highway, and the Troy Bypass reconsideration request.

- *To Improve turnaround time for Bureau review of new applications (Section 5.0)*

By implementing streamlined measures and tighter management controls combined with additional staffing, turnaround time has been reduced substantially. In June 2002, only 23% of in-house applications were older than 60 days and none older than 120 days--down from 35% and 11%, respectively, on July 1, 2001. This trend has continued into SFY 2003.

- *To continue to improve and streamline the wetlands rules for fairness, accessibility, and consistency (Section 8.0)*

Five bills that improved the wetlands and shoreland protection programs became law during the 2002 legislative session (see Section 8 of this report). DES also is developing a number of rules to streamline permitting processes such as permit by notification for specific types of smaller projects. For example, we have already adopted rules to allow permit by notification for some minimum impact projects

including seasonal docks, exploratory drilling for municipal wells, and geotechnical exploration for public projects. We have also initiated rulemaking to expand the notification process to include such projects as the installation of culverts for a single-family residence driveway, maintenance of existing culverts, swales, and ditches, and maintenance of existing structures such as docks and bridges. Permit by notification both streamlines small project permitting and frees up DES staff to focus on the larger, more significant projects.

- *To improve compliance with the wetlands and shorelands laws and with permit conditions issued by the Department (Section 6.0)*

Streamlining measures and an improved prioritization system are now being utilized to better enable DES to resolve these cases on a priority basis. An initiative to screen, prioritize and resolve the enforcement case backlog, which had built up to approximately 3,000 cases, has resulted in a backlog reduction to less than 1,000 cases as of December 2002. DES also implemented a program of follow up inspections on shoreline structure and boathouse projects, which found that over 20% of the projects were not built in accordance with approved plans. Follow-up action with permit holders to achieve timely, cooperative compliance has occurred.

- *To improve customer service (Section 4.0)*

DES recently completed a project to provide “real time” public access to information on the status of wetlands applications and permitting decisions ([www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands), “Wetlands Permit Query”). In the last year, the Wetlands Program has also responded to more than 400 incoming e-mail messages sent to the “wetmail” address, [wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us), and provided assistance on “walk-in” requests by assigning staff specifically to this activity.

DES has also made a number of organizational changes to improve wetlands program operations. For example, the programs which regulate development projects are under a common manager in the Land Resources Management Program to ensure better coordination and integration of these activities. Also, in July 2001, DES implemented changes to make the organization structure more compatible with the existing responsibilities and technical complexity of the wetlands program. These changes have included, for example, the merger of the Shoreline Structures and Shoreland Protection programs into one group to improve efficiency. Four senior level technical staff positions were also added using funding from the wetlands fee account, providing more professional review capacity and enabling the program to retain experienced permitting staff longer. These positions were only made possible by some anomalous large one-time fees for projects including large interstate natural gas pipelines and wetlands fines.

Table 2.1 provides a summary of other significant program accomplishments of the New Hampshire Wetlands Program over the last four years and demonstrates steady long-term program improvement.

**TABLE 2.1**  
**OTHER SIGNIFICANT WETLANDS PROGRAM IMPROVEMENTS (1999-2002)**

**Lake Winnepesaukee “Breakwater” Rule:** This new rule established specific locations on a map where breakwaters are allowed due to the reach of exposure to wind and wave action, and provides clear criteria on when breakwaters might be allowed in other areas. This has significantly simplified the analysis of these proposals by applicants and DES, and has streamlined the approval process by both DES and the Executive Council.

**Merger of Shoreland Protection and Shoreline Structures Programs:** This merger combined with the assignment of additional resources to the Shoreline Subsection improved the effectiveness of both programs in addressing permit applications, community outreach, and compliance. During boating season, DES personnel from this program are now present on the Lake Winnepesaukee during the summer months for compliance inspections and technical assistance on both the Shoreland Protection and Shoreline Structures Program requirements.

**Forestry compliance and outreach:** The Wetlands Bureau has been working closely with DRED Forest Rangers. Over the last two years, the Bureau has been involved in more than 24 workshops reaching more than 500 loggers and solved numerous problems in the field.

**Existing Permit by notification rules:** New rules were developed that allowed applicants to construct minimum impact seasonal docks and exploratory drilling for municipal wells and geotechnical exploration for public projects, as soon as required town signatures are obtained and the notification has been submitted to DES, instead of waiting for a full permit application review by DES.

**Proposed rules on permit by notification for routine highway and railway maintenance:** Formal rulemaking has been initiated to allow routine culvert and maintenance work to commence upon notification, provided NHDOT’s *Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire* are followed. These proposed rules are applicable to DOT, town road agents, private roads, and railroads.

**Other Permit by Notification Rules:** DES is in the process of completing and filing other permit by notification rules for projects such as repair or replacement of retaining walls, docking structures, culverts, dredges, rip-rap slopes, maintenance dredging, replenishment of beaches and access to residential building lots.

**Proposed “Lifetime Maintenance” Rules:** DES has initiated rulemaking that would allow maintenance of documented legal structures, for as long as the structure stays under the same ownership, without needing a new permit for each maintenance event.

**Wetlands Mitigation Banking Study and Draft Compensatory Rules:** DES has funded a study by the North Country Council on the feasibility of wetlands mitigation banking and will encourage this approach on a statewide level. Over the long term, these initiatives are expected to both streamline permitting and improve New Hampshire’s overall approach to wetlands mitigation projects. DES has also developed a set of draft mitigation rules that will completely clarify mitigation requirements for projects with significant wetlands and continues to discuss this proposal with outside stakeholders.

**e-Business and Database Improvements:** Permit application status can now be checked on-line. A new database link has been established with the Natural Heritage Inventory program at DRED. This allows DES to cross reference permit application locations with known areas of RTE species or exemplary natural communities. This eliminates a step in the permitting process for applicants.

**Department Liaisons Established for NHDOT and NH F&G Projects:** DES has established a liaison to work with NH F&G on projects involving access to public waters. This has resulted in a consolidated and expedited review and approval process involving all regulatory programs within DES. DES also has established a position dedicated to NHDOT permit applications resulting in greater coordination, improved review process, and expedited approvals for public transportation projects, particularly for routine road maintenance and improvements.





### **3.0 Wetlands Program Organization, Staffing and Funding**

#### **3.1 Wetlands Program Organization and Staffing**

Figure 3.1 provides a schematic of the Wetlands Bureau organization and Figure 3.2 provides a formal organization chart for the Wetlands Bureau, with staff in place as of December 2002. The Wetlands Bureau contains three sections which reflect the division of activities in the bureau:

- The Wetlands Permitting and Site Evaluation Section, which contains four subsections: Shoreline Structures and Shoreland Protection, Public Works Projects, Seacoast Wetlands, and Inland Wetlands. This section is responsible for the processing of permit applications and providing some technical support to the Wetlands Bureau Enforcement Section
- The Enforcement Section is responsible for enforcement and overall compliance for sites with known or suspected wetlands violations.
- The Education and Outreach Section is responsible for the development of informational materials and training sessions on wetlands issues.

The Wetlands Bureau includes 31 full-time and 5 part-time positions at full staffing. However, due to lack of funding, DES was not able to fill all staff positions at the same time during SFY 2002 and to date in SFY 2003. In December 2002, 5 full-time and 2 part-time positions were vacant in the Wetlands Bureau.

Figure 3.3 provides an estimate of how Wetlands Bureau staff time is allocated. DES estimates staff time allocation as follows: 61% for permitting activities, 24% for compliance and enforcement, and 15% for outreach and program development.

#### **3.2 Wetlands Program Funding and Budgets**

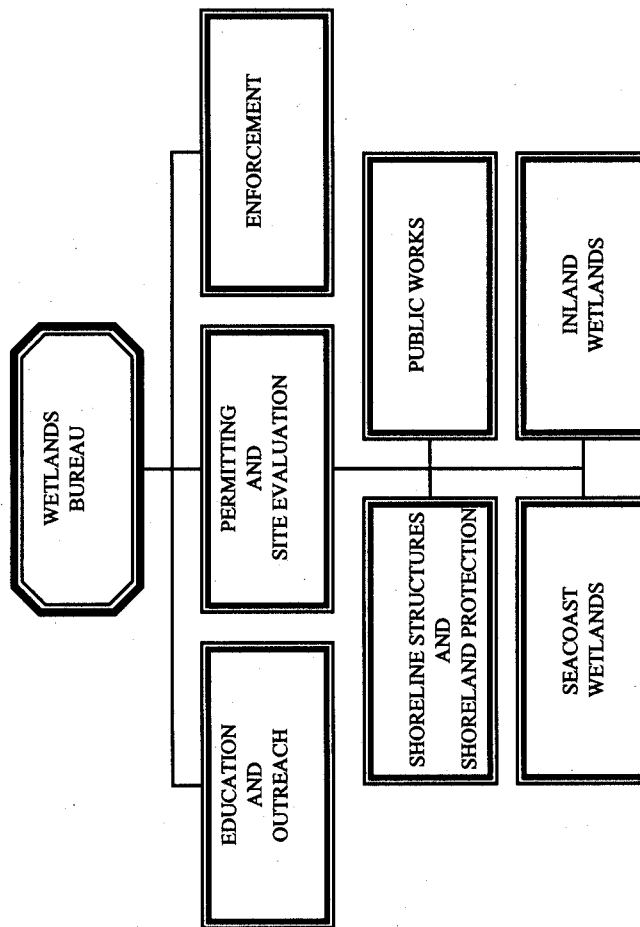
The SFY 2002 program budgets for the Wetlands Bureau are summarized in Table 3.1 and total approximately \$1.6 million to support full program staffing. Figure 3.4 graphically illustrates wetlands program funding sources and shows the approximate number of staff supported by each source.

**TABLE 3.1**  
**Wetlands Program**  
**State Fiscal Year 2002 Budget by Funding Category**

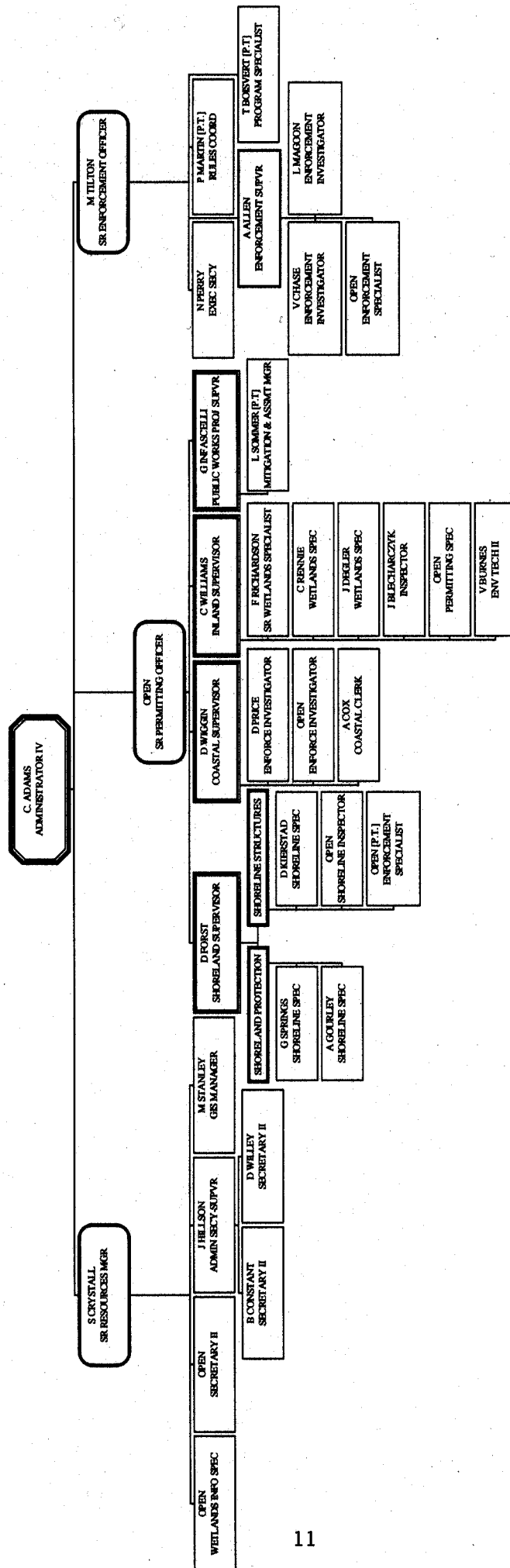
	<b>Budget</b>	<b>% Total Budget</b>
Wetlands Fee Account	\$ 782,664	48%
State General Funds	388,613	24%
Federal Funds	449,907	28%
<b>Total</b>	<b>\$1,621,184</b>	<b>100%</b>

In general, annual revenues from federal and general funds have remained more or less stable at current levels in recent years. Revenues to the wetlands fee account are dependent on, and fluctuate with the fees from wetlands permit applications and fines for major violations of wetlands rules.

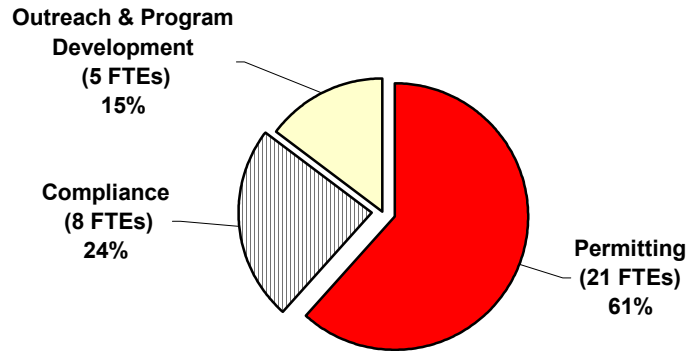
**FIGURE 3.1**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**  
**WATER DIVISION**  
**LAND RESOURCES MANAGEMENT PROGRAM**  
**WETLANDS BUREAU**



**FIGURE 3.2**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**  
**WATER DIVISION**  
**LAND RESOURCES MANAGEMENT PROGRAM**  
**WETLANDS BUREAU**

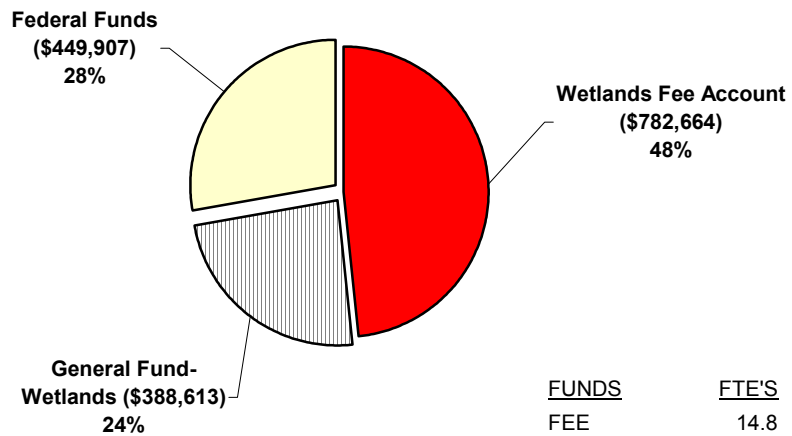


**Figure 3.3**  
**Wetlands Bureau Staff Effort by Program Category**



"FTE" = Full time employee equivalent.

**Figure 3.4**  
**Wetlands Bureau SFY 02 Actual Expenditures**

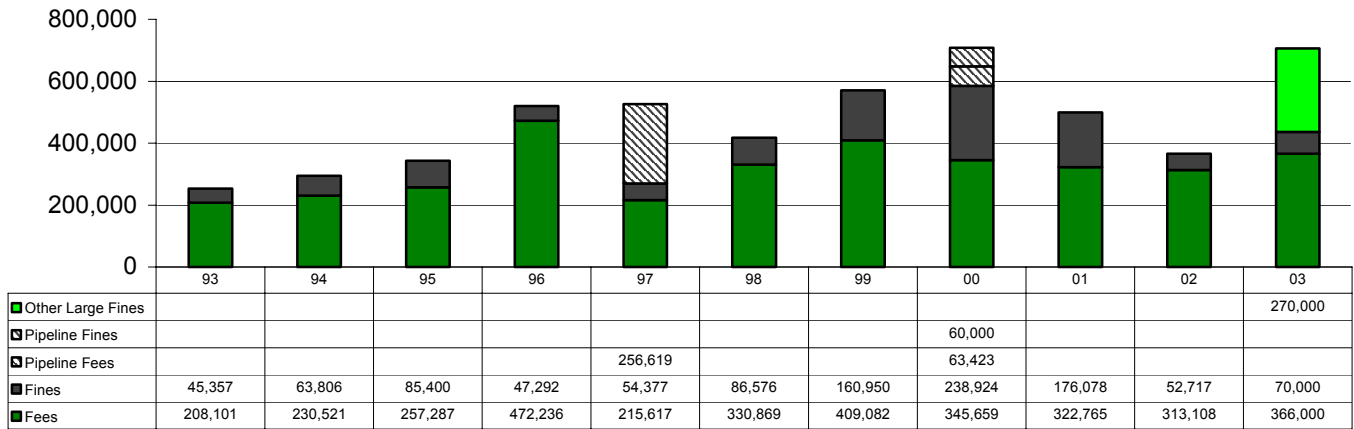


<u>FUNDS</u>	<u>FTE'S</u>
FEE	14.8
FEDERAL	7.6
GENERAL	11.6

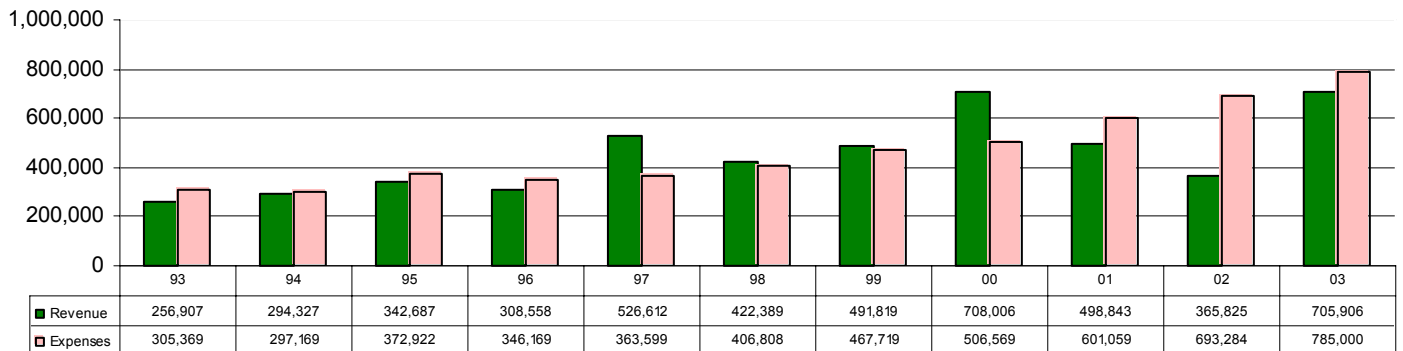
Wetlands Fee Account revenues for State Fiscal Years 1993 to 2003 (estimated) are presented in Figure 3.5. Revenues to the fee account come from application fees established by statute and fines assessed for violations of state wetlands statutes and related rules. In SFY 1997 and SFY 2000, applications for major interstate pipeline projects were submitted, resulting in significant one-time application fees of \$256,619, over double the annual revenues from routine application fees. In SFY 1998, the legislature increased fees from 2.5 to 4.0 cents per square foot, resulting in an increase in average annual revenues. Over the last 5 years ('98 to '02) annual fee revenues have fluctuated between \$318,108 and \$409,981 and fine revenues have fluctuated from \$52,717 to \$298,924 per year. From SFY 1998 through SFY 2002, average fee revenues were \$342,526 and average fine revenues were \$155,048, for average total annual revenues of \$497,374.

Annual Wetlands Fee Account revenues and expenses are presented in Figure 3.6 and the annual fee account balance is presented in Figure 3.7. Between SFY 1998 and SFY 2002, the fee account balance climbed from \$277,938 to \$416,839. To increase staff capacity to reduce permitting backlogs, additional staff were added in SFY 2001 and SFY 2002, supported by the one-time pipeline fees and fines. These funds can support additional staffing for about two years to reduce the turnaround time for wetlands permit applications to more acceptable levels. As described in Section 5.0 of this report, this effort along with new streamlining measures has been effective in providing more timely application reviews. However, the Wetlands Fee Account balance was reduced to less than \$100,000 by June 30, 2002. During the second half of SFY 2002, at least four fee-funded positions were left vacant by attrition to reduce the cash flow burden on the account and this has continued into SFY 2003. Also in 2002, DES, with assistance from the Department of Justice, received fine revenues from several longstanding enforcement cases. With typical permit fees and these fine revenues, the program is sustainable at about current (not full) staffing levels through the end of SFY 2003.

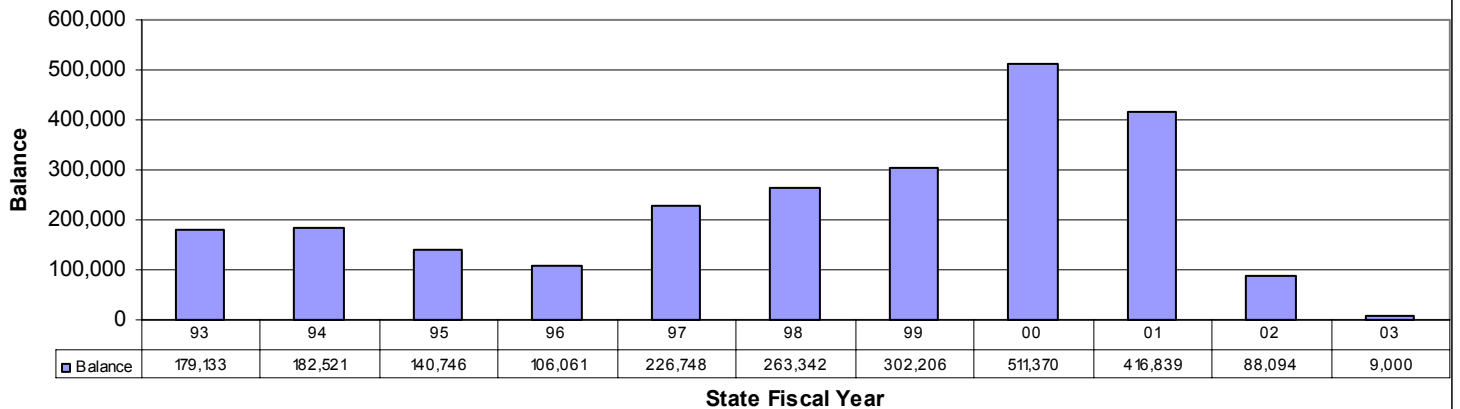
**Figure 3.5**  
**Wetlands Fee Account: Annual Revenue, SFY 93-SFY 03 (estimated)**



**Figure 3.6**  
**Wetlands Fee Account: Revenue and Expenses for SFY 93 to SFY 03 (estimated)**



**Figure 3.7**  
**Wetlands Fee Account Balance, FY 93 to FY 03 (estimated)**

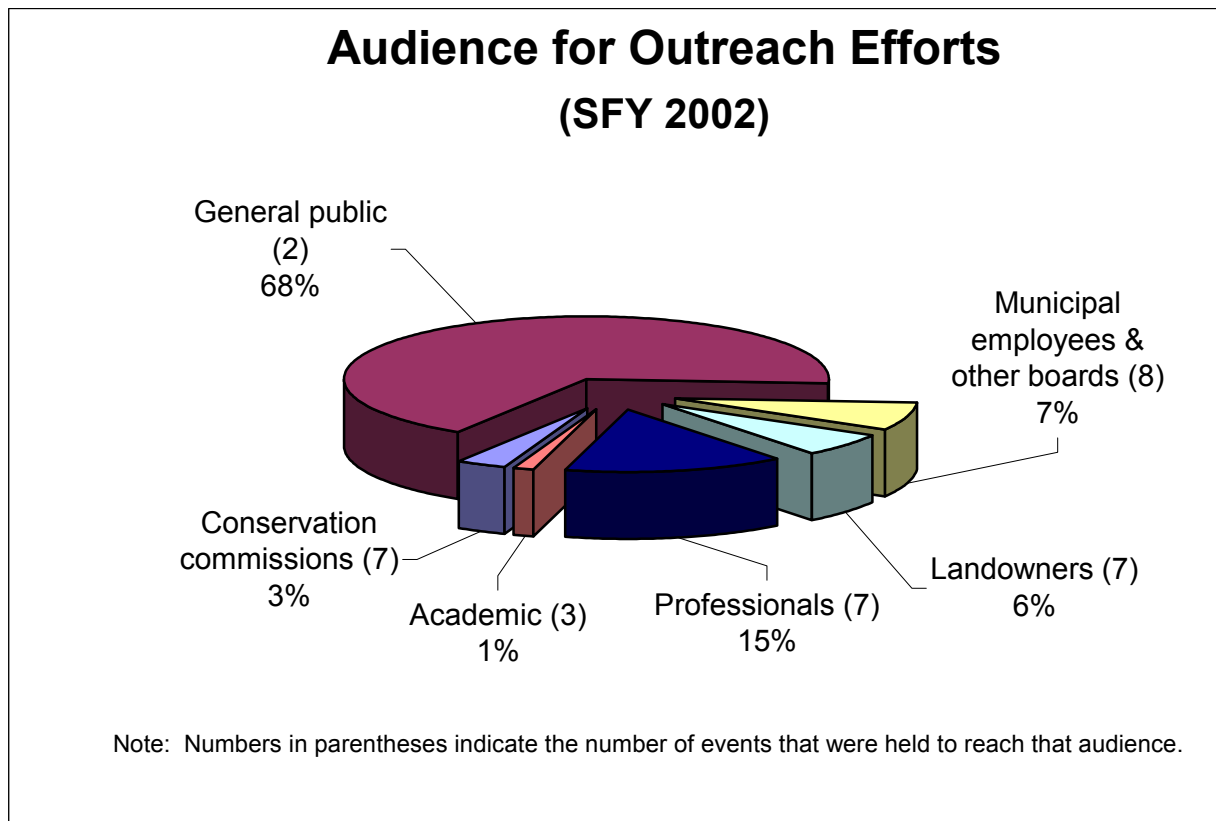


## 4.0 Education and Outreach

### 4.1 Presentations and Workshops

During SFY 2002, the DES Wetlands Bureau provided information to about 5,000 people through more than 40 presentations. The number of sessions by targeted audience is presented in Figure 4.1. Presentations were also made to real estate agents and appraisers, municipal road agents, certified wetland scientist, soils scientists, and foresters. Descriptions of the most significant workshops and seminars are summarized in Table 4.1. Other presentations are listed in Table 4.2.

**FIGURE 4.1**



**TABLE 4.1**

**Major Workshops Presented by the DES Wetlands Bureau in SFY 2002**

<b>WORK SHOP DESCRIPTION:</b>
<p><b>Land Resources Management Program Workshops:</b> During February and March 2002, three workshops were presented relative to the permitting and compliance requirements of the various activities within the DES Land Resources Management Program. Approximately 340 professionals and members of the general public attended these sessions on wetlands permitting and shoreland protection, subsurface disposal system permits, alteration of terrain permits, and limnology.</p> <p><b>Road Agent Programs:</b> About 100 road agents and municipal officials attended three programs coordinated through the University of New Hampshire's Technology Transfer (T<sup>2</sup>) program that were held in Lincoln, New London, and Derry in October 2001. The workshops included presentations by Wetlands Bureau staff, T<sup>2</sup> Center staff, and other individuals (applicants and consultants) who have obtained permits for town maintenance projects, such as culvert replacement and maintenance dredging of ditches. Overall the presentations were very well received and provided a forum for communication of concerns from all perspectives.</p> <p><b>Delineation of Altered Sites:</b> In cooperation with the US Army Corps of Engineers, NH Association of Natural Resources Scientists (NHANRS) and the NH Board of Natural Scientists (Joint Board of Licensure and Certification), DES developed and provided training in October 2001 on the delineation of disturbed sites using the methodology described under Section F of the US Army <i>Corps of Engineers Wetlands Delineation Manual</i> first published in 1987. Approximately 125 individuals participated in the workshop, 85 of whom were certified wetland scientists. The balance of participants included certified soil scientists, conservation commission members, and state and federal employees. The training consisted of a half-day of indoor presentations at DES and a half-day of field presentations at the New Hampshire International Speedway. Wetlands professionals donated time to survey the original boundaries of a wetland, provide an excavator and operator to dig test pits in non-wetland and wetland areas, research historical files for aerial photography, and so forth. The feedback on the workshop was overwhelmingly positive.</p> <p><b>Forested Floodplain Symposium:</b> DES sponsored a symposium to present the results of wetlands-related research funded by EPA grants through agreements between DES and the researchers. The work included turtle and amphibian studies (University of New Hampshire and the N.H. Fish and Game Department), natural plant community studies (Natural Heritage Inventory, N.H. Department of Resources and Economic Development), bird studies (Audubon Society), and techniques for protection of floodplain forests and riparian areas (Office of State Planning). PowerPoint presentations of these research efforts are available on the DES website.</p> <p><b>All-Terrain Vehicles (ATVs):</b> The partnership of DES and the Department of Resources and Economic Development (DRED) has begun an outreach and education program for all state parks with designated ATV trails to educate riders about New Hampshire wetlands laws. The Wetlands Bureau created a poster that addresses off-road vehicle use in wetlands and surface waters (see Appendix B) for this effort that was first displayed at a large gathering of ATV users at an event at the Gunstock Recreation Area in Gilford. The poster also can be viewed on the DES website. Plans are underway to have posters printed on polyethylene and placed at strategic locations through the state, including ATV registration sites. During SFY 2002, several workshops about ATVs and wetlands were also presented to ATV trail administrators and the DRED Trails Bureau.</p>



**TABLE 4.2**  
**Wetlands Bureau Outreach Presentations**  
**SFY 2002**

<b>Outreach Event:</b>
Nubanusit Lake Association
Wakefield Lake Associations
Loon Preservation Commission
Sunset Lake, Hampstead
NRCS – Pond Maintenance - Canterbury
Pond workshop Rockingham County Conservation District – Stratham
Backyard Conservation for Homeowners
Workshop on Section F (Disturbed Sites) of the US Army Corps of Engineers 1987 Wetlands Delineation Manual
Road Agent Programs
Logging and the Law (for loggers)
Floodplain Forest Symposium
New Hampshire Municipal Association annual meeting
Public Works Academy
New Hampshire Association of Conservation Commissions
UNH- Wetlands Resource Management Class
Weare Conservation Commission
New Hampshire Association of Natural Resource Scientists – mitigation
NH Association of Assessing Officials
Farm and Forest Expo
Logging and the Law (for municipal officials)
Land Resource Management Program
GSDI annual meeting
2002 Wheeled OHRV Trail Administrator workshop
DRED Trails Bureau
Monadnock Region Town and City Clerks
Henniker Planning Board
Greenfield Conservation Commission
College for Lifelong Learning

## 4.2 Website Improvements

In SFY 2002, the Bureau responded to more than 400 incoming e-mail messages sent to the “wetmail” address, [wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us). Incoming e-mail typically has included inquiries related to project-specific information, file-specific information, questions from abutters to proposed projects, reports of violations, and questions that have no relation to the wetlands program. Wetlands Bureau staff review e-mail messages, answer general questions, and forward file-specific questions to the appropriate DES contacts.

DES also initiated a project to provide “real time” public access to information on the status of wetlands applications and permitting decisions ([www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands), “Wetlands Permit Query”.) The wetlands permits web query was finalized in early 2002 and is available on the website. The initial screen shown at this address is presented in Figure 4.2. This enables the public and applicants to determine the status of permit applications more quickly and efficiently, and reduces the staff resources required to respond to public inquiries. The same system also exists for the Subsurface Systems Bureau and will be implemented by other DES programs over time.

**FIGURE 4.2**

**Wetland Permits Web Query**

The screenshot shows a web browser window titled "Report Parameters - Microsoft Internet Explorer provided by NHDES". The address bar shows the URL: [http://www.des.state.nh.us:1522/des/ONESTOP.SSWT\\_WET\\_SITE\\_PERMIT\\_RPT.show\\_parms](http://www.des.state.nh.us:1522/des/ONESTOP.SSWT_WET_SITE_PERMIT_RPT.show_parms). The page header includes the New Hampshire Department of Environmental Services logo and a "Go Back" button. The main heading is "Wetland Permits Query Parameters". Below this are two links: "Questions/Comments: Wetlands Contact" and "Query Instructions". A red note states: "For faster query results, provide the town where the site is located. If a Status Date Range is requested and the Status Date To is not provided, the current date will be used." The form contains the following fields: File Number (text input), Site Town (dropdown menu with a percentage symbol), Owner Last Name (text input), County (dropdown menu with a percentage symbol), Application Type (dropdown menu with a percentage symbol), Status (dropdown menu with a percentage symbol), Status Date From (MM/DD/YYYY) (text input), Status Date To (MM/DD/YYYY) (text input), and Tax Map (text input). At the bottom of the form are "Submit Query" and "Reset" buttons. The Windows taskbar at the bottom shows the Start button and several open applications: Explorer, Report Parameters, Inbox, 2001, Microsoft Word, New, and Microsoft Excel. The system clock shows 2:02 PM.

**4.3 Publications and Forms**

DES also publishes new fact sheets, application forms, and other guidance to assist applicants and the general public with wetlands issues and the permitting process (see Appendix B). Other DES fact sheets can be found at [www.des.state.nh.us](http://www.des.state.nh.us).

In SFY 2002, the Wetlands Bureau also revised the Notification of Minimum Impact Timber Harvesting and Forestry Activities by clarifying the instructions and adding sample sketches (see Appendix C). This was done in close cooperation with the New Hampshire Timberland Owners Association.

As part of the outreach effort, the Land Resources Management Program has developed a poster entitled "Got Permits?" (see Appendix B) which briefly describes all permits required for various activities regulated by DES. It is available in poster size through the Wetlands Bureau and can be viewed online at [www.des.state.nh.us](http://www.des.state.nh.us). It has also been distributed to all New Hampshire municipalities and, as a result, is now displayed in many town offices. The poster has received excellent reviews from both municipal officials and the public.

## 5.0 Wetlands Permitting Program

### 5.1 Types of Permit Applications

Under RSA 482-A, almost all impacts to wetlands and surface waters require a dredge and fill permit. Each project that requires a wetlands permit is classified in one of three categories -- minimum, minor, or major -- according to the potential impact of the project. Table 5.1 provides examples of each project type derived from the wetlands rules (Wt 302).

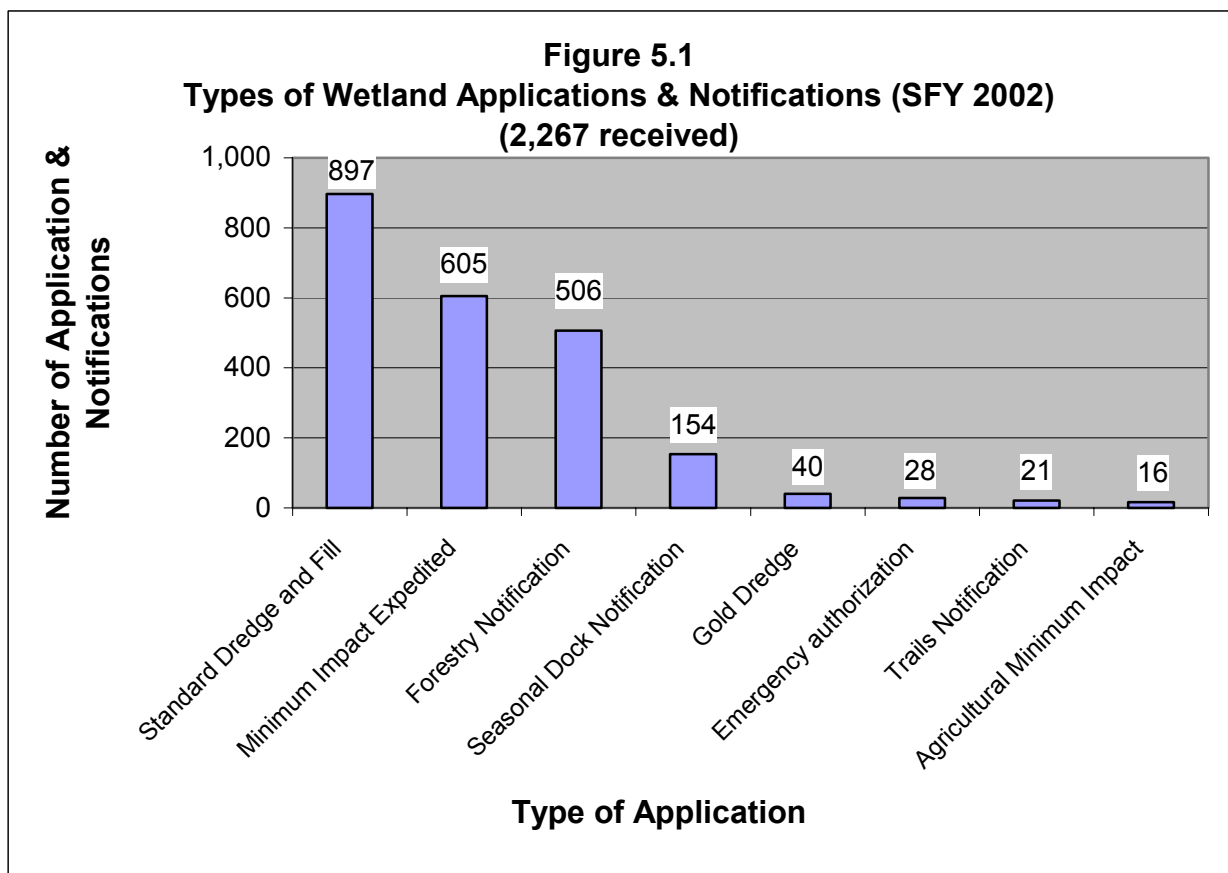
**TABLE 5.1**  
**Wetlands Permit Application Project Classification**

Minimum Impact	Minor Impact	Major Impact
Repair or replacement of shoreline structures; seasonal dock with no more than two boatslips in standard configuration on one property. Impacts to wetlands that are less than 3,000 sq. ft.; Maintenance dredge of legally constructed pond or structure if done in the dry. Pond construction <20,000 sq. ft. of impact if limited to poorly drained soils and no inflow or outflow.	Impacts to wetlands between 3,000-20,000 sq. ft.; Construction or replenishment of a beach with more than 10 cubic yards of sand but less than 20 cubic yards; Dredge 20 cubic yards or less from public waters. Impacts to banks and stream or river channel do not exceed 200 linear feet.	Projects in or adjacent to municipally-designated prime wetlands, in tidal wetlands, tidal buffer zone, sand dunes, bogs, or in a wetland that is an exemplary natural community or has rare, endangered or threatened species, regardless of amount of the requested impact.  More than 20,000 sq. ft. of impact to wetlands, surface waters or banks; Construction or modification of any major docking system; Dredging more than 20 cu. yds. in public waters; Disturbance of more than 200 linear feet of the shoreline of a lake, pond, stream, river or its banks.

In SFY 2002, the Wetlands Bureau received 2,267 permit applications and notifications.

Figure 5.1 shows the number and types of applications received, as summarized below:

- Standard Dredge and Fill Application (897, 39.6% - required for projects that are classified as minor or major impact).
- Minimum Impact Expedited Application (605, 26.7% - includes most driveway culverts, maintenance and repair projects and projects in utility rights-of-way).
- Notification of Forest Management of Timber Harvest Activities Having Minimum Wetlands Impact (506, 22.3% - for forest management activities that require wetlands or surface water crossings).
- Seasonal Dock Notification for Lakes and Ponds (154, 6.8%).
- Recreational Mineral Dredging Application (40, 1.8%).
- Emergency Authorization (28, 1.2%).
- Notification of Trail Development Activities Having Minimum Impact (21, 9.3%).
- Application for Minimum Impact Agriculture Projects (16, 0.7%).

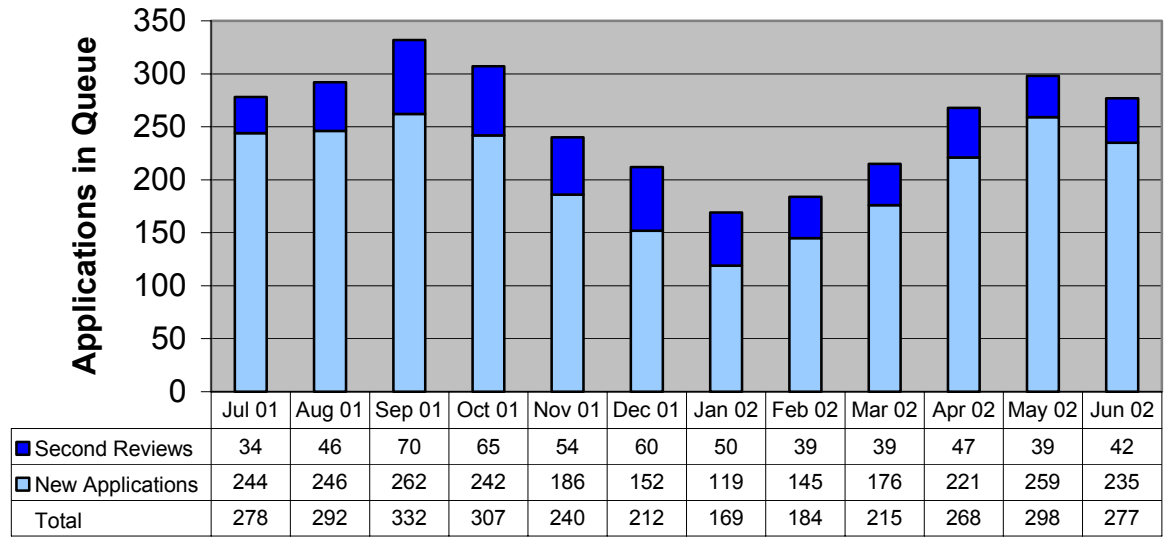


During SFY 2002, 2,216 final decisions were made on permit applications. The Wetlands Bureau approved 2,065 of the proposed projects based on original applications and an additional 113 amendment requests for a total of 2,178 approvals, or 98% of the applications processed. Only 2% of the requests were denied by the bureau.

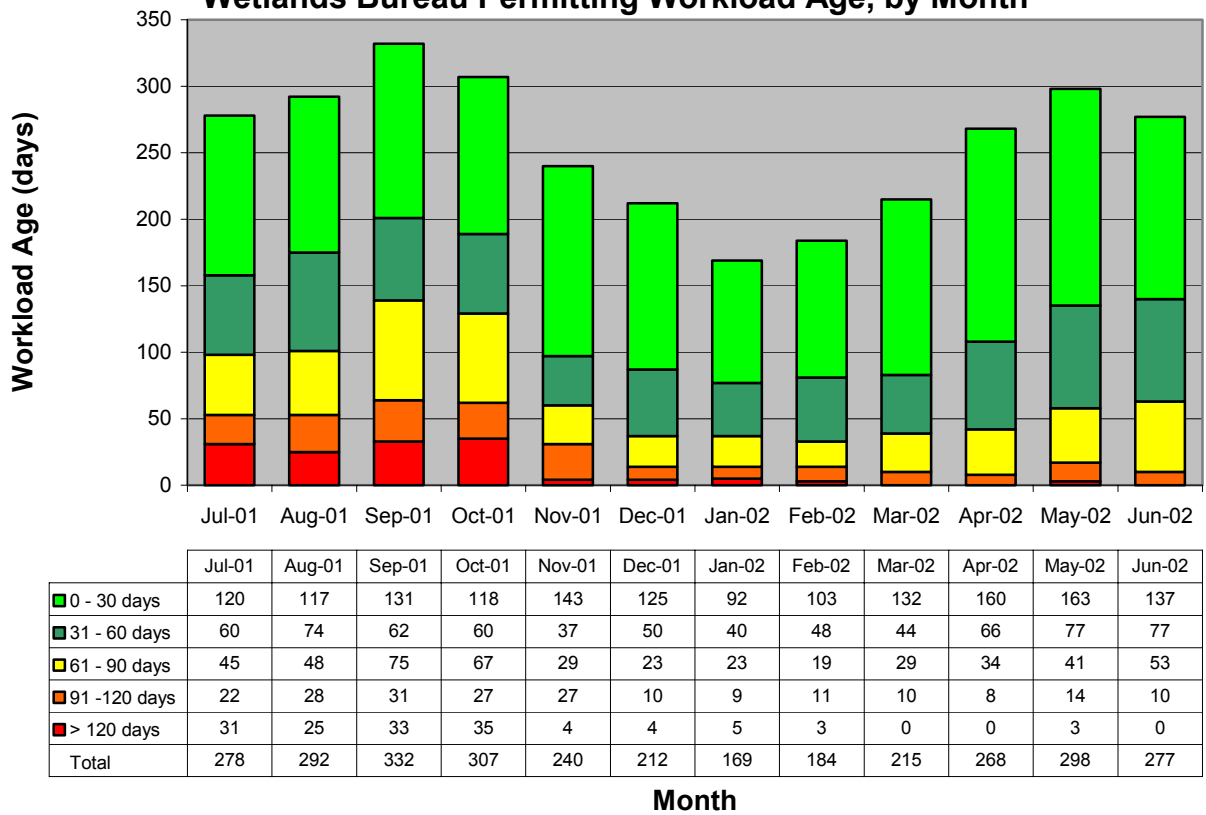
Figure 5.2 shows the application review queue by month for SFY 2002, divided into new applications and resubmittals. Typically, about 10 to 20 percent of the applications in the review queue in a specific month are resubmittals. In SFY 2002, the review queue peaked in September with 332 applications, consistent with historical patterns associated with the seasonal nature of construction.

An important program performance measure is the age of the application review queue. Figure 5.3 demonstrates significant program improvement during SFY 2002 for this measure. In July 2001, 98 of 278 (35%) of in-house applications were older than 60 days with 31 (11 %) older than 120 days. In June 2002, 63 of 271 (23%) were older than 60 days and none were in-house more than 120 days. This shows substantial improvement in application turnaround time. However, as discussed in Section 3.2, this improvement trend is not sustainable unless revenues are stabilized at levels that enable full staffing of the Wetlands Bureau.

**Figure 5.2**  
**Wetlands Bureau, Permitting Section**  
**Total Review Queue by Month for SFY 02**



**Figure 5.3**  
**Wetlands Bureau Permitting Workload Age, by Month**



## **5.2 Major Public Works and Transportation Projects**

During SFY 2002, improvements were initiated in the procedures by which DES reviews and renders decisions on public works and transportation projects:

- The Wetlands Bureau designated a single full-time point of contact to deal with the processing of DOT Dredge and Fill applications.
- A Memorandum of Agreement (MOA) was signed by DOT and DES to formally establish a mechanism for joint public hearings, often in conjunction with the US Army Corps of Engineers and Federal Highway Administration. This facilitates public participation by providing the opportunity to comment on all aspects of proposed projects during one consolidated hearing process.
- DES and DOT staff communicated on a weekly basis to ensure agency priorities for application reviews for maintenance and routine road improvement projects were synchronized, and continue to do so.
- A process to ensure senior agency staff involvement, up to the DES Commissioner level, was instituted for major transportation projects to ensure a comprehensive review of these projects.

These improvements resulted in more efficient and effective decision making for these projects.

In SFY 2002, a total of 77 new DOT projects were permitted and 4 permit amendments were approved for ongoing DOT projects.

Between July 2001 and December 2002, the following five major public works projects were permitted by DES (the applicant is noted in parentheses):

- Keene Bypass (DOT)
- Troy Bypass (DOT)
- Manchester Airport Access Road (DOT)
- Langley Parkway in Concord (City of Concord),
- Cocheco River Dredge (City of Dover/Pease Development Authority and Corps of Engineers).

Table 5.2 provides details on these projects and on two other major transportation projects, the I-93 Expansion from Salem to Manchester, and the Spaulding Turnpike Improvements, which are in the pre-decision phases of the wetlands permit application process.

**TABLE 5.2**

**STATUS OF SIGNIFICANT TRANSPORTATION AND DREDGE  
PROJECTS WITH APPLICATIONS FOR WETLANDS PERMITS**

<b>PROJECTS WITH WETLANDS PERMITS</b>	
<b>Troy Bypass, Troy</b>  DES issued a permit to DOT for the Troy Bypass project on August 23, 2002. A reconsideration request was made by the Conservation Law Foundation (CLF) in September 2002 and denied by the Wetlands Bureau in November 2002. This decision has been appealed to the Wetlands Council and, depending on the outcome of the appeal, the case may go to Superior Court. This project was originally denied in August 2001 and DOT subsequently provided additional information that was the basis for approval.	<b>Status: Permitted 8/02, Appealed by CLF</b>
<b>Manchester Airport Access Road</b>  This proposed project would provide access to the airport from the F.E. Everett Turnpike. DES permitted the project in October 2002. The permit was in the period when request for reconsideration of the decision could be filed at the time of report publication.	<b>Status: Permitted 10/02</b>
<b>Langley Parkway, Concord</b>  This project is to provide direct access to the Concord Hospital area from Clinton Street near I-89. It was permitted in March 2002 and is under appeal to the Wetlands Council by several citizens. A prehearing conference has been held by the Wetlands Council and various motions by the parties' involved are currently pending.	<b>Status: Permitted 3/02, Appealed by Individuals</b>
<b>Cocheco River Dredge, Dover</b>  A permit was issued by DES to the Pease Development Authority on July 18, 2002 and approved by Governor and Council on September 4, 2002. No appeals were taken. The dredge is scheduled to be implemented by the Corps of Engineers and is likely to occur from late 2003 into 2004.	<b>Status: Permitted 7/02, Project Scheduled for 2003</b>
<b>Keene Bypass</b>  This DOT project was permitted by DES and appealed by CLF. The approval was upheld by the Wetlands Council, then overturned in Superior Court. It has been appealed by the state to the State Supreme Court and had not yet been heard.	<b>Status: Permitted, Appealed by CLF, before State Supreme Court</b>
<b>PROJECTS IN PRE-DECISION STAGE</b>	
<b>I-93, Salem to Manchester, Expansion Project</b>  As of November, 2002, the Draft Environmental Impact Statement (DEIS) for this project was in the comment period and joint hearings had been held. Discussions on the draft DEIS and permitting decisions will be in process well into 2003. The focus of these discussions is principally not on the need for the project and related impacts, but on the magnitude of the compensatory mitigation package for those impacts.	<b>Status: In process</b>
<b>Spaulding Turnpike Upgrade</b>  This project is in the alternatives analysis development phase. DES has attended a number of meetings and made site visits to view areas of potential impact. Wetlands permit applications may be submitted in 2004.	<b>Status: In process</b>

### **5.3 Wetlands Impacts from Permitted Projects**

In SFY 2002, wetlands impacts from permitted projects totaled approximately 121 acres. These impacts are broken down by type of resource affected in Figure 5.4. The majority of impacts that DES approved were to nontidal wetlands (86.9 acres, 72%). The second largest impacted resource was surface waters and their banks (27.6 acres, 22%).

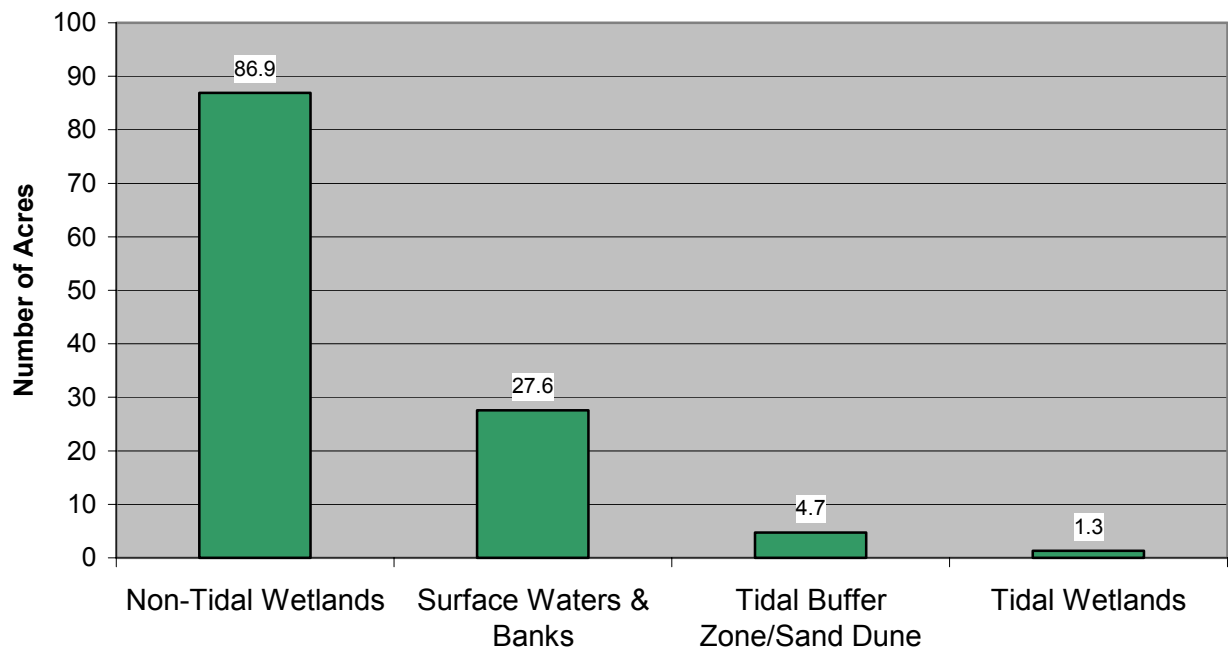
The Wetlands Bureau tracks permitted impacts by 25 activity categories.<sup>1</sup> Figure 5.5 shows the 10 types of activities for which cumulative permitted impacts totaled more than three acres in SFY 2002. The activities with the highest total impacts included highway and road (24.4 acres), access to residential structures or development (19.7 acres), and maintenance (12.0 acres). The cumulative impact totaled about 14 acres for all of the other 15 categories with each less than 3 acres of cumulative impact.

---

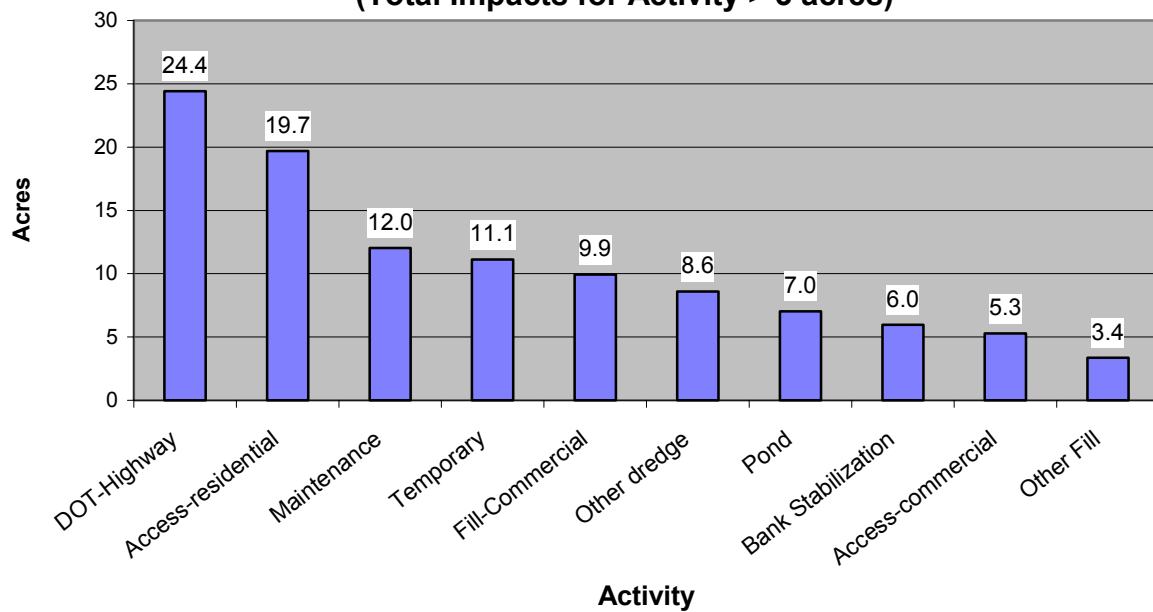
<sup>1</sup> Access-commercial, Access-residential, Agriculture, Bank stabilization, Beach, Boathouse, Breakwater, Bridge, Dock-access, Dock-permanent, Dock-seasonal, Dock-tidal, DOT-highway, Fill-commercial, Fill-residential, Maintenance, Other dredge, Other fill, Other bank, Pond, Surface dredge, TBZ-structure construction, Temporary Water-access, Water-fill.



**Figure 5.4**  
**Dredge or Fill Impacts to Wetlands By Type of Resource Impacted**



**Figure 5.5**  
**Permitted Wetland Impacts By Type of Activity**  
**(Total Impacts for Activity > 3 acres)**

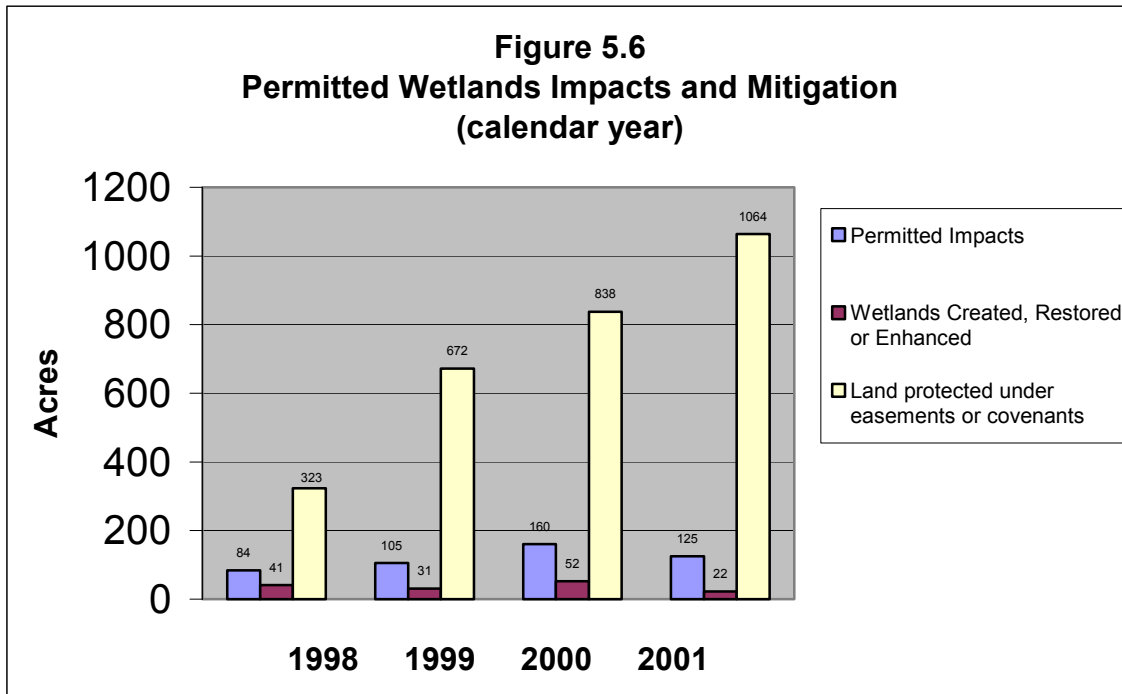


## 5.4 Compensatory Mitigation for Impacts from Permitted Projects

Under federal and state wetlands rules, in order for a wetlands permit to be issued, the applicant must first consider impact avoidance then minimization. If impacts are unavoidable and minimized, compensatory mitigation may then be considered to offset the impacts. For a specific project, compensatory mitigation may take one or more of the following forms: creation of a new wetland, restoration of a degraded (previously filled, dredged or drained) wetland, or preservation of upland to serve as a buffer to a wetland, typically to protect habitat for species that require both uplands and wetlands during their life cycle. For preservation, land will typically be protected by conservation easements, other covenants on the land, or transfer to a nonprofit organization. Typical compensatory mitigation ratios range from 1.5 to 3 acres of wetlands created and restored per acre impacted and 8 to 20:1 acres of upland buffer preservation per acre of wetlands impacted. This varies with the quality of both the affected wetlands and the proposed compensatory mitigation.

Compensatory mitigation is typically required as a permit condition for Section 404 permits by the Army Corps of Engineers for all large projects, such as major regional transportation projects, with significant federal agency involvement. Since the early 1990s, state rules that require compensatory mitigation have also existed for projects that affect the functions and values of municipality-designated prime wetlands (Wt 700). The Wetlands Bureau has also been applying an informal compensatory mitigation policy for major impact projects to meet state and federal requirements and has drafted compensatory mitigation rules that are expected to be finalized in 2003.

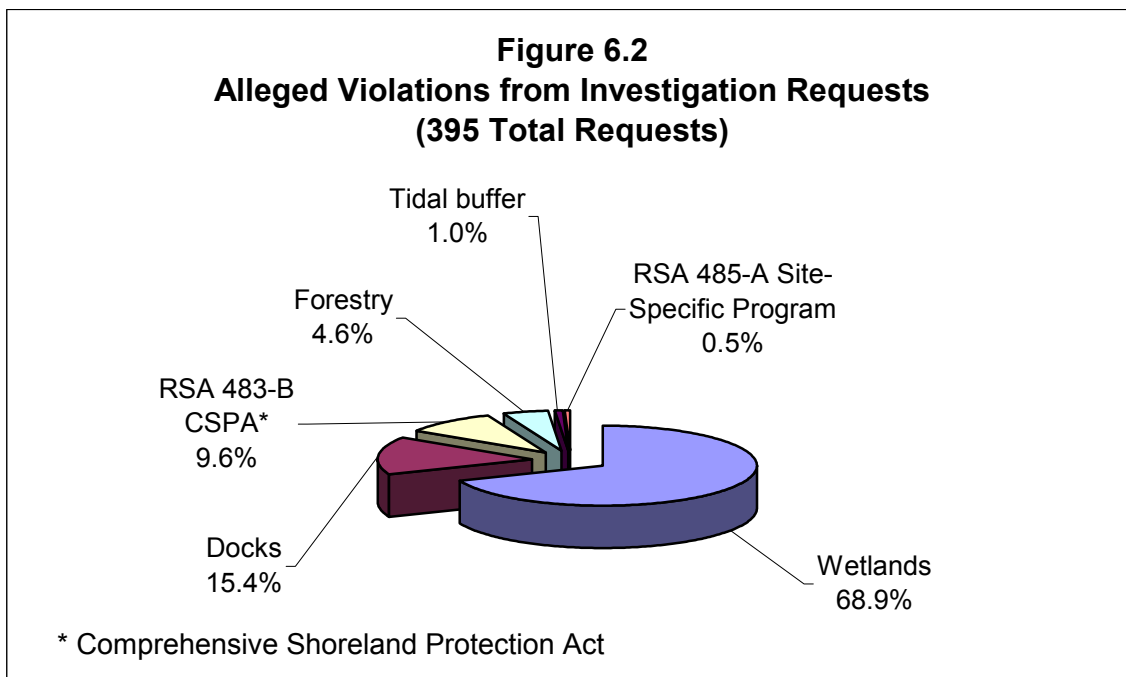
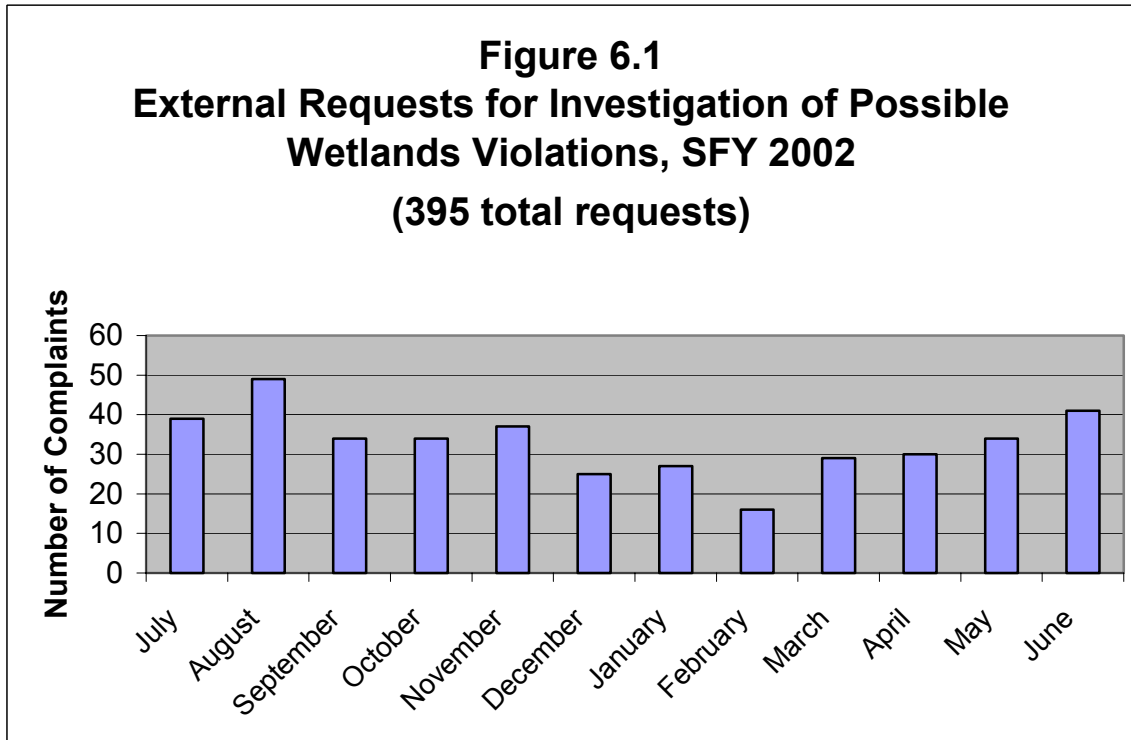
Figure 5.6 summarizes the compensatory mitigation that occurred from 1998 through 2002 from permitted activities. As shown, the vast majority of mitigation was by land preservation.



## 6.0 Compliance and Enforcement

### 6.1 SFY 2002 Compliance Activity Summary

In SFY 2002, DES received 395 requests by outside parties for investigation of alleged violations of the wetlands statute, RSA 482-A, which is slightly higher than the annual average of 368 investigation requests for the last 5 years. Figure 6.1 shows the breakdown by month and Figure 6.2 shows the nature of the alleged violations.



During SFY 2002, DES followed up on investigation requests or complaints by issuing 269 letters to property owners or others which were the subjects of the reported concerns requesting that any unpermitted work that may be in wetlands jurisdiction be terminated until DES determines whether violations are present. DES also conducted 287 initial compliance inspections to follow up on alleged violations. In addition, DES issued 79 Letters of Deficiency or Notices of Violation and 12 Administrative Orders seeking restoration of sites at which violations could not otherwise be satisfactorily addressed. Fourteen plans were submitted to DES for restoration of properties impacted by unpermitted dredge or fill. Also issued were 11 fine notices, primarily for violations of Administrative Orders. Outstanding cases include 59 with notices of proposed fines and 23 that have been referred to the NH Department of Justice.

The backlog of compliance cases had grown to over 2,800 cases by January 2002. In an effort to bring this backlog under control, 975 of these cases were screened and closed administratively without findings or further enforcement action between March and September 2002, leaving 1,841 open files. A priority-based system has now been implemented to resolve outstanding and new cases within the limits of the available staff resources.

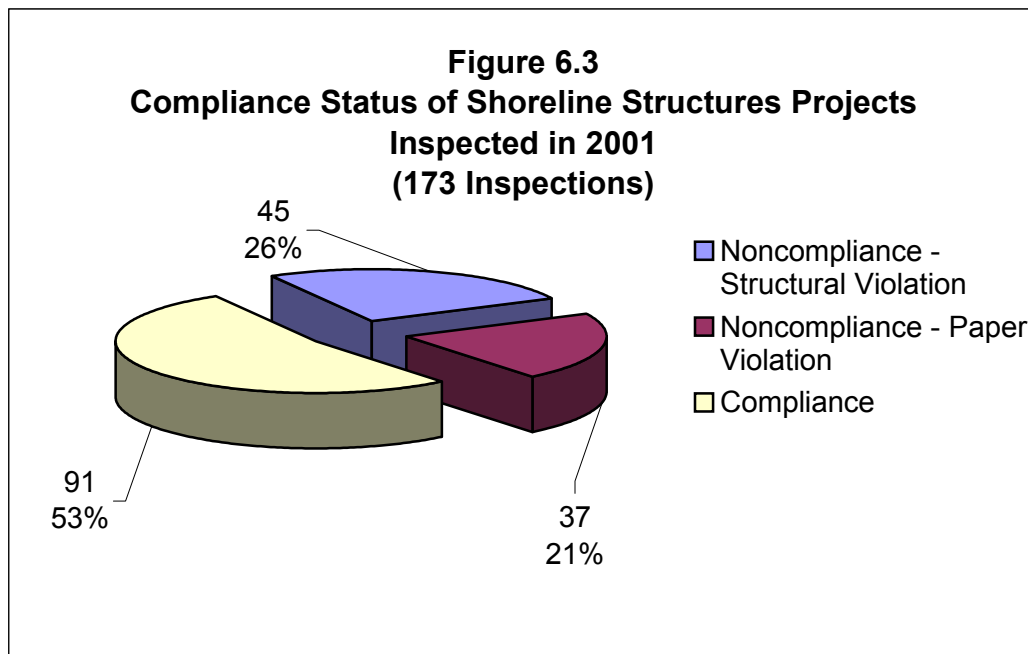
## **6.2 Shoreline Structures Compliance Study**

In 2000 and 2001, the Wetlands Bureau conducted a special compliance study to inspect shoreline structures permitted in 1997 and 1998 on Lake Winnepesaukee and Lake Sunapee. Applications from the years 1997 and 1998 were chosen expecting that virtually all projects with two or three year old permits would have been built by 2000.

Two hundred thirteen projects were targeted. Of these, 173 (81%) had been constructed, with 159 located on Lake Winnepesaukee and 14 on Lake Sunapee. The compliance inspection results are summarized below and presented graphically in Figure 6.3.

- 91 (53%) were in compliance with all approved plans and permit recordation requirements.
- 36 (21%) were in compliance with approved plans but failed to have the permit recorded with the county registry of deeds as required by the permit. This is a minor “paper” violation that is easily correctable.
- 46 (26%) were not built in accordance with the permitted plans. These deficiencies included at least one of the following: permitted dimensions exceeded; incorrect structure configuration; incorrect structure location; or other construction defects. Many of these were significant deficiencies demonstrating the permittees’ lack of attention to approved plans and permit conditions contained in both DES permits and Executive Council approvals.

DES has issued notices of violations to the owners of the noncompliant shoreline structures and is in the process of obtaining compliance.



During the summer of 2002, DES also conducted compliance inspections on new boathouses permitted since 1996. Of 69 boathouses inspected, 10 (14 %) were not constructed at the time of inspection. Of the 59 constructed boathouses inspected:

- 46 (78%) were in compliance with approved plans and permit conditions.
- 13 (22%) were not in compliance.

DES is also in the process of resolving these boathouse deficiencies through standard compliance procedures.



## **7.0 Environmental Restoration Projects**

During SFY 2002, the DES Wetlands Bureau participated in a number of projects designed to improve New Hampshire's environment by the restoration of wetlands and river resources. These activities fall into two broad categories: wetlands restoration projects and dam removal. These projects were always in partnership with organizations including local and watershed associations, the New Hampshire Coastal Program, New Hampshire Fish and Game Department, UNH Jackson Estuarine Laboratory, non-governmental organizations such as Ducks Unlimited, and federal agencies including the Natural Resources Conservation Service, Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service and others.

### **7.1 Wetlands Restoration Projects**

The purpose of wetlands restoration is to return degraded wetlands systems to as close to original conditions as possible. Site-specific objectives vary but generally include:

- Water quality improvement.
- Restoration of ecological integrity when the original system has been degraded by activities like filling or installation of drainage structures
- Restoration of original wetland conditions and ecological integrity.
- Restoration of native species where invasive, non-native (exotic) species have proliferated.

Descriptions of recent projects with DES Wetlands Bureau involvement are provided in Table 7.1. These projects include five salt marsh restorations on New Hampshire's Seacoast and two coldwater fisheries habitat restoration projects in northern and western New Hampshire. Table 7.1 also includes the extensive list of DES partners on these projects.

These efforts are expected to continue into the future on other sites across the state.

### **7.2 Selective Dam Removal for River Restoration**

There are more than 4,800 active and inactive dams in the State of New Hampshire. Many of these dams were built during the Industrial Revolution in the 19th and early 20th centuries and played central roles in New Hampshire's economic and societal growth during that period. Some have effectively been abandoned or have deteriorated into disrepair. Selective dam removal can eliminate a public safety hazard, relieve a dam owner's financial or legal burdens, or restore a river to a healthier, free-flowing condition. The New Hampshire River Restoration Task Force was formed in January 2000 to identify and consider opportunities for the selective removal of dams that meet the above criteria. The Task Force includes diverse representation, including multiple state and federal agencies, conservation organizations, local interests and others (see Table 7.2). In identifying dams for removal, the Task Force must in part consider the benefit of the existing dam, the environmental benefit of restoration, preservation of historical value, and cost. Through the Task Force an effective mechanism to address these considerations has been developed.

The first New Hampshire dam removal for the purpose of river restoration was completed in the summer of 2001 - the McGoldrick Dam on the Ashuelot River in Hinsdale. This dam removal is a critical piece of a larger plan to restore anadromous fish to the Ashuelot River, an historically significant Connecticut River tributary for American shad, blueback herring and Atlantic salmon. In July, 2002, a second dam, the Winchester Dam, also on the Ashuelot River, was removed with funding from the New Hampshire Fish and Game Department, the National Marine Fisheries Service, and the Connecticut River Watershed Council. Based on the criteria described above, additional dams on the Ashuelot and other rivers are being considered for removal in 2003 and beyond as funds allow. It should be noted that both dam removal projects were carried out by the Dam Bureau construction crew.

All dam removal projects require wetlands and Dam Bureau permits. As a “lesson learned” from the McGoldrick Dam project, an integrated permit application process for Dam and Wetlands Bureau approvals is currently being developed to streamline the processing of future applications.



**Table 7.1****Wetlands Restoration Projects, SFY 2001**

	<b>Project Description</b>	<b>Partners with DES</b>
West Branch of the Upper Ammonoosuc River, White Mountain National Forest, Berlin	Proposed coldwater fishery enhancement. Create pool and cover habitat by installing tree revetments and rock veins along the banks.	USDA Forest Service, NH Fish & Game Dept.
Awcomin Salt Marsh Restoration, Rye	Restoration of 25 acres of tidal wetland previously filled with spoils from the Rye Harbor dredging projects of the 1940s and 1960s. The project includes removal of 95,000 cubic yards of dredge spoils from the degraded tidal wetland to restore the hydrology and native vegetation. Dredging approximately 5,700 linear feet to recreate tidal creeks will restore the tidal regime. Enhance wildlife habitat by the creation of three shallow water pannes, including fish holding areas.	Rye Conservation Commission USDA NRCS, NH OSP Coastal Program, Ducks Unlimited, Northeast Wetland Restoration
Fisheries habitat enhancement on the Cold River, Walpole	Provide holdover habitat for adult fish. Excavation within the streambed to create deep pools and placement of large boulders in the streambed to provide habitat and variations in flow velocity.	NH Fish & Game, Trout Unlimited, Cold River Local Advisory Committee, Coldwater Fisheries Coalition, Walpole Conservation Commission
Little River Salt Marsh Restoration, North Hampton (1999-2001)	The Little River Salt Marsh is a tidal wetlands ecosystem which has been subject over the past 200 years to the effects of road building, filling, grid-ditching and having a highly restricted tidal flow due to undersized culverts. Tidal inundation was restored on this 150-acre salt marsh by removing the tidal restrictions along Route 1-A. Dredged 6,390 linear feet (39,560 sq. ft.) of tidal marsh channels ("Great Ditch" and Trunk Ditch") to increase tidal flushing and relieve stormwater flooding. This project is restoring ecological viability to approximately 170 acres of degraded salt marsh through the installation of a much enlarged culvert at the outlet to reestablish tidal flushing and the dredging of accumulated sediments and debris from tidal creeks. Monitoring the results of the project is ongoing and will continue in partnership with the NH Coastal Program, UNH Jackson Estuarine Laboratory, USDA-NRCS, ACOE, EPA, NMFS, Ducks Unlimited and other participants. Two DES staffers were among the recipients of a Coastal America Award for this project.	NH Coastal Program, US Army Corps of Engineers, USDA NRCS,; US Fish and Wildlife Service, NH DRED-Natural Heritage Inventory
Shaw Creek Salt Marsh Restoration, Greenland	Dredged and filled 1,188 square feet of tidal wetland to restore the hydrology of a 7.3-acre degraded salt marsh along Shaw Creek. Cleaned out and plugged existing drainage ditches, creating nine fish sumps, installed short connecting channels and filled mosquito-breeding depressions.	Town of Greenland, NH Coastal Program, US Fish & Wildlife Service, Ducks Unlimited, NH Fish & Game Department

**Table 7.1 (con't)**

<b>Project Name and Location</b>	<b>Project Description</b>	<b>Partners with DES</b>
Foss Creek Salt Marsh Restoration, Greenland	Past ditching activities have drained and degraded the Foss Creek salt marsh. The purpose of the project was to restore the hydrology and open water habitat of the salt marsh by utilizing Integrated Marsh Management (IMM), which creates panne and pool habitats for fish and water bird use and controls mosquitoes via predatory minnows. The project entailed dredging and filling 1,694 square feet of tidal wetland to restore the hydrology of a 3.9-acre degraded salt marsh along Foss Creek. Work included installing one ditch plug, creating four fish sumps, installing short connecting channels and filling mosquito-breeding depressions.	Town of Greenland, NH Coastal Program (under a NOAA grant), US Fish & Wildlife Service, Ducks Unlimited, NH Fish & Game Department.
Church Street Salt Marsh Restoration, Hampton	Drainage ditches and past filling activities had severely degraded the salt marsh. The project is to restore the hydrology and natural vegetation community of the salt marsh by using Integrated Marsh Management (IMM), which creates panne and pool habitats for fish and water bird use and controls mosquitoes via predatory minnows. Work included dredging a man-made ditch, creating 6 shallow pools with 7 fish sumps and installing short connecting channels between pools.	Town of Hampton (Conservation Commission and DPW), US Fish & Wildlife Service, ,Ducks Unlimited

**Table 7.2****New Hampshire River Restoration Task Force Member Organizations**

U.S. Army Corps of Engineers U.S. Environmental Protection Agency U.S. Fish and Wildlife Service U.S. Geological Survey U.S. National Park Service Natural Resource Conservation Service NOAA Restoration Center N.H. Department of Environmental Services N.H. Division of Historical Resources N.H. Fish and Game Department N.H. Office of Emergency Management	American Rivers American Whitewater Ashuelot River Local Advisory Committee Coastal Conservation Association Coldwater Fisheries Coalition Connecticut River Watershed Council Conservation Law Foundation Merrimack Valley Paddlers New Hampshire Rivers Council The Nature Conservancy Trout Unlimited
--	--

## 8.0 Regulatory and Policy Improvements

### 8.1 Legislation

During the 2002 legislative session, five bills were enacted into law which modify statutes relative to the wetlands and shoreland protection programs. These changes are summarized in Table 8.1 and copies of the final bills are provided in Appendix D.

**Table 8.1**

**Wetlands and Shoreland Protection Act  
Legislation Enacted in the 2002 Session**

<b>Wetlands Program Legislation</b>	
<b>HB 1235</b> Ch. 272 Eff. 5/18/02	Relative to operations of motorized vessels and safe boater education and relative to fill and dredge in wetlands. <ul style="list-style-type: none"><li>• Defines “boat slip” and “structure” for purposes of the fill and dredge in wetlands laws.</li><li>• Exempts temporary seasonal docks from the excavating and dredging permit requirement.</li><li>• Modifies the requirements for the repair and reconstruction of certain dwellings over water.</li><li>• Requires the commissioner of DES to adopt rules relative to fill and dredge in wetlands which establish an expedited application and permitting process and which identify fill and dredge activities which RSA 482-A exempts from the permitting requirements.</li></ul>
<b>HB 1252</b> Ch. 210 Eff. 7/15/02	Relative to the membership of the wetlands council. <ul style="list-style-type: none"><li>• Changes the membership of the Wetlands Council by replacing the DES representative with the Commissioner of Agriculture, Markets and Food, or designee, and adding a natural resource scientist.</li></ul>
<b>Shoreland Protection Act Legislation</b>	
<b>SB 451</b> Ch. 263 Eff. 7/12/02	Relative to shoreland protection act. <ul style="list-style-type: none"><li>• Makes certain changes to RSA 483-B, the Comprehensive Shoreland Protection Act (CSPA).</li><li>• Requires DES to adopt rules relative to some of the amended CSPA provisions.</li></ul>
<b>SB 452</b> Ch. 169 Eff. 1/1/03	Relative to fines for violations of the shoreland protection act. <ul style="list-style-type: none"><li>• Defines “repeat violation” under the CSPA.</li><li>• Requires DES to impose an administrative fine for each violation.</li><li>• Allows the administrative fine to be multiplied by a factor of two for every previous violation committed by the same person or entity.</li></ul>
<b>SB 453</b> Ch. 114 Eff. 7/2/02	Relative to setbacks in the Shoreland Protection Act. <ul style="list-style-type: none"><li>• Reestablishes the setback line for primary structures within the protected shoreland and allows a municipality to have a lesser setback, established prior to January 1, 2002, to maintain the defined primary building line in that municipality.</li><li>• Extends the provisions of the Shoreland Protection Act to the Connecticut River.</li></ul>

## **8.2 Rulemaking**

The DES Wetlands Bureau has numerous rulemaking efforts underway. In 2001, rules to establish a field citation program were adopted and a policy for implementation of the program was developed, including training of staff and parameters for the use of this new compliance tool to complement the existing wetlands enforcement process.

During SFY 2002, the Wetlands Bureau advanced formal proposals that are currently in various stages of the rulemaking process. A summary of each rule and its current status are shown in Table 8.2.

**Table 8.2**  
**Status of Proposed Wetlands Bureau Rules (October 2002)**

<p><b>Routine Roadway and Maintenance Activities Exemptions</b></p> <p><b>Description:</b> The proposed rules would exempt from permitting those projects within wetlands jurisdiction that involve routine roadway and railway maintenance activities conducted in accordance with the guidelines in the “Best Management Practices for Routine Roadway Maintenance Activities in New Hampshire”</p> <p><b>Status:</b> Sent to JLCAR Nov. 2002.</p>
<p><b>Pre-date Jurisdiction Rules</b></p> <p><b>Description:</b> The proposed amendments for “pre-date jurisdiction” rules (Wt 100 and Wt 500) to change the current nomenclature of “grandfathered” structures to “existing, legal structures” is aimed at more appropriately classifying structures in jurisdiction that are exempt from some existing requirements.</p> <p><b>Status:</b> Public hearing held in July 2002. Rulemaking notice to be filed Feb. 2003.</p>
<p><b>Dug-in Boathouses</b></p> <p><b>Description:</b> The draft rules for dug-in boathouses (Wt 402.09-11) create a scheme for permitting such structures that is consistent with both RSA 482-A and the Comprehensive Shoreland Protection Act (RSA 483-B). The Rules identify acceptable pre and post construction techniques and establish a minimum shore frontage of 300 feet per structure.</p> <p><b>Status:</b> Draft distributed to stakeholders, waiting for comments.</p>
<p><b>Perennial Stream Definition</b></p> <p><b>Description:</b> The draft rule for revised stream definitions (Wt 100 and Wt 300) redefines perennial stream and provides a new definition for seasonal stream to be consistent with statutory guidelines and administrative rules across all DES programs.</p> <p><b>Status:</b> Rulemaking notice to be filed summer 2003.</p>
<p><b>Compensatory Mitigation Rules</b></p> <p><b>Description:</b> The draft rules translate 1:1 functional replacement into specific acreage ratios for various wetlands types and provide criteria for equating the preservation of uplands that are ecologically associated with wetlands and surface waters with specific quantities of unavoidable wetlands impact. These rules, if adopted, would clarify New Hampshire’s compensatory mitigation requirements.</p> <p><b>Status:</b> Meetings with stakeholders groups during summer of 2002. Public hearing to be scheduled in Feb. 2003.</p>
<p><b>Lifetime Permits for Repair and Replacement of Shoreline Structures</b></p> <p><b>Description:</b> Continuing efforts have been made with rulemaking to establish lifetime permits for repair and replacement of certain shoreline structures and culverts (Wt 502.01); revision of the rules for tidal wetlands, sand dunes and tidal buffer zone (Wt 600); and a permit-by-notification process for certain minimum impact projects (Wt 300). The expansion of the permit-by-notification process was the subject of several meetings with stakeholders representing public private and regulatory interests.</p> <p><b>Status:</b> Rulemaking notice to be filed March 2003.</p>
<p><b>Permit Application Requirements</b></p> <p><b>Description:</b> The draft rule that would update permit application requirements (Wt 501.02) specifically defines the data and information required for submission with permit applications. This would include preparation of wetland delineation plans by a certified wetland scientist. This would codify in rule format, the guidelines that are used to assist applicants in preparing complete initial submissions, thus reducing the number of applications returned for additional information and enabling the review of proposed projects to proceed expeditiously and efficiently.</p> <p><b>Status:</b> Public hearings conducted during September 2002. Rulemaking notice to be filed Feb. 2003.</p>



## **9.0 Wetlands Council**

### **9.1 Wetlands Council Purpose and Membership**

A description of the formal roles of the Wetlands Council is detailed in the Fact Sheet provided in Appendix E. The Wetlands Council's primary purpose is to conduct formal adjudicatory hearings of appeals of dredge and fill permits and related enforcement orders issued by the Wetlands Bureau. The Council also provides input on other matters concerning the Wetlands Bureau. For example, all proposed wetlands rules are presented by DES to the Council for consideration and preliminary comment before formal rulemaking is initiated. Also, at the regular monthly meetings, the Wetlands Bureau provides the Council with status reports on ongoing program activities, program performance, and proposed program or policy changes, and the Council members are afforded the opportunity for comment. DES and the Wetlands Council continue to seek opportunities to expand the role of the Council in the development of statewide policy pertaining to wetlands program activities.

The current membership of the Wetlands Council is as follows:

<b>Council Member:</b>	<b>Representing:</b>
Brian K. Fowler, Chairman	Construction Industry
Camilla Lockwood	Conservation Commission Association
Open	Municipal Association
William M. Dannehy	County Conservation Districts
Bruce Schwaegler	Audubon Society
Glen Normandeau	Marine Construction
David Barrett	Department of Safety (Marine)
William Ingham	NH Fish & Game
E. William Roy	NH Dept. of Transportation
Brent Edmonds	NH Dept. of Res. And Econ. Dev.
Thomas Sloan	NH Dept. of Agr., Markets & Foods
Ted Diers	NH Office of State Planning
Open	Board of Natural Resource Scientists

### **9.2 Wetlands Council Activities During SFY 2002**

The following highlights the major activities of the Wetlands Council during SFY 2002:

- The Council membership was changed by legislation (HB 1252) adding representation from the Department of Agriculture, Markets and Food and the Board of Natural Resource Scientists. The DES member was removed.
- Conducted 14 hearings for appeals of Wetlands Bureau decisions (see Table 9.1).
- Made recommendations to the Bureau relative to numerous rulemaking initiatives.
- Conducted prehearing conferences prior to appeal hearings or clarification of issues prior to hearings (see Table 9.1).
- Provided input to a legislative study committee considering changes to clarify and strengthen the Comprehensive Shoreland Protection Act.
- Prepared a Fact Sheet describing the functions of the Wetlands Council (see Appendix E).

**TABLE 9.1**  
**Wetlands Appeals**  
**Wetlands Council Pre-hearing Conferences from July 1, 2001 to June 30, 2002**

<b>Name</b>	<b>Pre-hearing date</b>	<b>Result</b>
Charles Kalil	Aug. 30, 2001	Ask for pre-hearing conference order
George & Susan Glines	Oct. 9, 2001	Parties are negotiating a settlement
John & Diane Sullivan	Oct. 9, 2001	Parties are negotiating a settlement
Neil and Helen Garvey	Mar. 12, 2002	Decision document reviewed
George Whalley	Apr. 23, 2002	Settlement discussions
Richard Stoico	Apr. 23, 2002	Owner to go to court over ownership rights
Charles Kalil	Aug. 30, 2002	Schedule Hearing
<b>Total Pre-hearings</b> 7		

**Wetlands Council Hearings from July 1, 2001 to June 30, 2002**

<b>Name</b>	<b>Hearing date</b>	<b>Result</b>
Merrymeeting Lake Assoc.	July 10, 2001	Denied motion for reconsideration
Samuel Greenlaw	July 10, 2001	Owner has 30 days to respond to council questions
Jack Fredyma	July 10, 2001	Denied motion for reconsideration
Roads Corporation	Sept. 11, 2001	Appellant has 15 days to respond
Roads Corporation	Nov. 11, 2001	Parties are negotiating
John & Diane Sullivan	Jan. 22, 2002	Accept stipulation in rules
Thomas & Beverly Jensen	Jan. 22, 2002	Denied, appeal too late
George & Susan Glines	April 9, 2002	Dismiss appeal
Mark & Maria Young	April 9, 2002	Deny petition, untimely filing for reconsideration
Vernon Gamble	April 9, 2002	Deny petition, untimely filing for reconsideration
Neil and Helen Garvey	May 14, 2002	Accept decision document
Charles Kalil	May 14, 2002	Dismiss appeal
Gorham Supermarket	May 14, 2002	Accept appeal and request pre-hearing
Ronald and Vivian Chaput	May 14, 2002	Deny appeal, untimely receipt
<b>Total Hearings</b> 14		



# **Appendix A**

## **NHDES WETLANDS PROGRAM**

### **Wetlands Bureau Management Strategy**

**NHDES WETLANDS BUREAU  
MANAGEMENT STRATEGY  
January 2003**

**I. WETLANDS BUREAU MISSION**

To protect, maintain and enhance environmental quality in New Hampshire, through education and the intelligent application of the requirements set forth in statute, with the goal of allowing reasonable development while ensuring the protection of valuable natural resources.

**II. WETLANDS BUREAU GOALS**

**To educate NH landowners, contractors, municipalities, businesses, consultants and the general public about the values of wetlands, the Wetlands Bureau's jurisdiction, and the procedures and rationale behind the state and federal regulations.** The Wetlands Bureau currently has three staff members who are dedicated to developing and delivering public outreach programs and materials as well as maintaining a public information and support web site at <http://www.des.state.nh.us/wetlands>. Extensive public outreach and education are critical components to ensuring an effective and responsive program. Each year the Bureau makes presentations at 40 to 50 public outreach sessions to help the public better understand wetlands and shoreland protection issues.

**To ensure timely, consistent and technically appropriate decisions on permitting and compliance issues.** The Wetlands Bureau currently has a staff of scientists and engineers whose combined technical expertise and practical experience is invaluable in guiding proposed development in directions that minimize environmental impact. The primary task of the staff is the review and decision-making on requests to dredge and fill wetlands or to develop land within the protected shorelands (including after-the-fact requests). The Bureau also seeks restoration of wetlands in cases where unauthorized work has caused unnecessary damage to jurisdictional areas. The Bureau's decisions must be reasonable, based sound environmental science and consistent with the intent of the program's enabling legislation, RSA 482-A and RSA 483-B.

**To improve turnaround time for Bureau review of new applications.** While the quality of review of applications and supporting documentation is high, the Bureau needs to improve the timeliness of the review, particularly for larger projects. The Wetlands Bureau's objective is to issue technical comments or final decisions on all minimum impact projects within 30 days, all minor impact projects within 60 days, and all after-the-fact and major impact projects within 120 days.

**To continue improvement and streamlining of wetland rules to assure fairness, accessibility, and consistency.** The Bureau currently utilizes a set of administrative rules that has been developed in piecemeal over a period of thirty years. Although these rules are excellent in many areas, the Bureau must continue to work towards the creation of a more comprehensive, user friendly set of rules. These rules should be organized and indexed by specific project types and should clearly define the regulatory definitions and processes so as to make the rules both clearer and more predictable. The Bureau should maintain the flexibility to refine the rules to address issues of concern as needed.

**To improve compliance with the wetlands and shorelands laws and with permit conditions issued by the Department.** Each year the Bureau responds to approximately 300 allegations from the public about possible unauthorized impacts to jurisdictional areas. Reviewing and responding to these allegations takes a considerable level of staff effort and commitment of Bureau resources. The Bureau's goal is to provide a consistent, predictable and appropriate compliance assurance and response program that is protective of valuable wetland and shoreland resources while providing a credible deterrent against future violations.

**To improve customer services.** The Bureau currently employs several mechanisms for providing customer service. The Bureau utilizes an Inspector of the Day (IOD) program, which assures that a member of the technical staff is available to answer questions and provide assistance when individuals call or visit the office unannounced. The Bureau also schedules pre-application meetings with parties to provide guidance on regulatory requirements and project formulation early in the design process. Bureau decision reports and the Bureau's permit tracking database are available for review at the Bureau's website. The Bureau must expand upon these existing programs, must look for new ways to provide services, and must provide the highest level of staff training so that services can be delivered to the public in a responsive and satisfactory manner.

## **1 III. MANAGEMENT PLAN ACTION ITEMS**

### **A. WORKLOAD ALLOCATION**

**Continue to assess permitting inspector workload through weekly reporting of backlog levels.**

The Wetlands Bureau Permitting Section has implemented a reporting system that allows for an assessment of each inspector's workload. This reporting system is an important tool that allows Bureau managers to monitor backlogs so as to prevent unacceptable delays in review and decision-making. Backlogs can be minimized by assigning files as necessary to ensure that workload is distributed relatively equally amongst the staff. If unexpected increases in workload cannot be managed in a timely manner with existing Bureau staff, files will be assigned to appropriate staff outside the Bureau through a department-wide cooperative backlog reduction effort. Backlog reports will be distributed to senior management each month, accompanied by a summary of priority projects.

**Reevaluate permitting regions to ensure that inspector workload is balanced.**

Permitting regions were established in 1998 so as to balance the workload amongst the available Bureau staff. These regions are aligned and sized to allow for equivalent number of file assignments within each region. However, because a higher proportion of larger, more complex land development projects occur in the south central and southeastern portions of the state, there are fewer files assigned to these regions. Additionally, shoreline structure applications in the Lakes Region comprise a disproportionate volume of the applications received by the Bureau and are assigned to dedicated staff for review and decision-making.

**Evaluate the merits of file assignment by project type, rather by geographical region.**

The Bureau will evaluate assigning new applications based on project type, rather than on a geographical basis. For example, currently, all NHDOT projects and public boat access projects are assigned to specific staff members. The Bureau will evaluate whether a similar approach is feasible for other project types, such as shoreline structures, dam construction or repair, stream bank stabilization and others. This approach may help to improve both efficiency and consistency in Bureau permitting actions.

**B. RULES/PROCESS CHANGES**

**Create an expanded permit by notification process to streamline review of simple projects.**

Projects within the Bureau's jurisdiction vary in terms of their environmental impacts and many of the lesser environmentally impacting projects consume a disproportionate amount of staff time and Bureau resources. As an example, a large number of new applications are received for impacts associated with access to single family building lots. Since these and other regulated project types (such as maintenance dredging, repairs to existing structures, certain boat docking structures, and others) generally cause negligible environmental impacts, rule changes that provide for an expanded permit by notification process seem appropriate. This would free staff time and Bureau resources to review projects of more substantial environmental consequences. The Bureau is currently working with a group of stakeholders to develop an expanded "Permit by Notification" for such projects and has introduced legislation to enable rulemaking. DES plans to have Permit by Notification rules in place by June 2003.

**Complete development of Department rules on mitigation.** Although mitigation is often incorporated into Department approvals for major and minor impact projects, the Bureau does not currently have a set of criteria specifying appropriate and acceptable levels of mitigation. The Bureau has received substantial criticism because of this shortcoming. In response the Bureau, with substantial public input, has worked over the last two years to draft clear rules to address this issue. The Bureau plans to complete the public consultation process and file proposed mitigation rules by March 2003.

**Continue to expand the role of the Wetlands Council in program and policy improvements.** The Wetlands Council is recognized as a significant resource that, in addition to hearing appeals of Bureau decisions, plays an important role during the development and implementation of rules, Bureau policies and other program improvements. In 2003, the Bureau plans to improve on the existing approach and further engage Wetlands Council members in front-end program developments and problem solving to fully take advantage of this resource.

**Improve coordination with other Bureaus within the Department.** Projects requiring wetland permits frequently involve regulation by the Subsurface Systems Bureau and Site Specific Program as well as other programs within DES. The Bureau is currently reviewing a draft policy, developed by the Watershed Management Bureau, to identify projects where WMB Staff will assist the Bureau in review of water quality impacts. The Bureau will continue to improve cross-program coordination, including training of Bureau staff as it relates to other DES programs, so as to improve response and delivery of services from a department-wide perspective.

## **C. STAFF DEVELOPMENT**

**Create policies for the shoreline and coastal sections to develop coordination, consistency and efficiency between permitting and enforcement issues.** The Bureau's Shoreland and Coastal sections will be integrated in their approach to permitting and compliance issues. The Senior Permitting and Senior Enforcement Officers will work with the Coastal and Shoreland Supervisors and the Bureau Administrator to identify specific areas of improvements to assure consistency and efficiency throughout the Bureau.

**Designate an entry-level technical position to assist with permit-by-notification review and initial review of incoming complaints.** The Bureau currently has one full-time staff person devoted to the review of forestry, gold dredge, trails and seasonal dock notifications. This position is also primarily responsible for entering all data from applications into the Wetlands Bureau database and has been recently assigned the task of establishing files on new complaints. In anticipation of the expanded permit by notification process, the Bureau will need to realign existing staff or create a new position to assist with this workload.

**Improve Land Resources Management program cross training.** The Senior Permitting and Enforcement Officers will coordinate with the Site Specific Program and Subsurface Systems Bureau to implement a program for cross training of staff, including conducting joint field inspections. This will ensure that all Land Resources Management Program staff (Wetlands, Shorelands, Subsurface, and Site Specific) can assist in identifying and resolving a wide range of issues thus improving consistency and timeliness in the delivery of department services to the public.

#### **D. PUBLIC OUTREACH**

**Develop a plan for the Resources Section of the Bureau.** Education and outreach is critical to informing the public about the importance and values of wetland and shoreland areas and the regulations affecting activities within these areas. Effective outreach is a key component of improving the quality of the application materials submitted to the Bureau. Currently, the Bureau has three staff members who develop and deliver outreach material and presentations to the public. Although the Bureau's public outreach efforts are substantial, these efforts will be enhanced by a plan to better target and deliver these resources to municipal officials, wetland scientists, engineers, and other professionals involved in the preparation of wetland applications.

**Improve the quality of applications submitted to the Wetlands Bureau by completing and publishing the guidebook "How to Apply for a NH State Wetlands Permit."**

One of the major factors affecting timely Bureau review and decision-making is the number of applications submitted which do not contain complete and accurate information or do not adequately address the technical requirements or relevant rules. By properly educating the public about the application requirements, the Bureau will receive more complete, higher quality applications thus reducing the amount of time spent requesting information and allowing more time to review the merits of the project, which will ultimately result in a more timely permitting decision. The Bureau is currently drafting sections of this guidebook and anticipates that the document will be completed and available to the public by May 2003.

**Develop application forms and public outreach materials in anticipation of adoption of new rules on mitigation, permit by notification, and lifetime permits.** To complement these new rulemakings, the Senior Permitting Officer will work with the Senior Resources Manager to develop new fact sheets to promote public education about the new processes. This will also require new application forms that DES will develop with assistance from the NH Association of Natural Resource Scientists.

**Develop a Wetlands and Shorelands newsletter to update the public about program developments and accomplishments.** The Bureau will develop a newsletter on wetlands and shorelands issues to better inform the consulting community and the general public about the program. The Bureau expects that the newsletter will be issued at least twice annually and will include news and information from the Land Resources Management Program in general.

**Maintain the current Inspector of the Day and pre-application meeting programs to ensure that the public has adequate access to technical support.** The Bureau currently has a system whereby technical staff members are available on a daily, rotating basis to answer general questions and provide technical assistance to the public. Additionally, each inspector is available to assist the public in technical review and project development prior to the submission of a wetlands permit application. These measures have proven to be very successful in providing assistance to applicants thus ensuring more complete applications and subsequently more timely permit decisions. The Bureau will consider realigning staff to dedicate a single position to serve the Inspector of the Day function, rather than continuing

the current rotating system. Additionally, while pre-applications are currently conducted in the office, the Bureau will promote pre-application meetings and technical assistance in the field.

**Develop public outreach materials to support the Bureau's compliance efforts.** Current Bureau outreach materials are strongly focused on permitting issues. There is a great need to better support the Bureau's efforts on compliance with permit conditions and restoration of unauthorized wetland impacts. The Bureau will develop a restoration fact sheet; including sample plans to assist landowners with restoration of impacted areas.

## **E. INTERNAL POLICIES AND TRAINING**

**Create a manual of Wetlands Bureau standard operating procedures and policies.** The development of this manual will provide an opportunity to review and improve existing Bureau internal policies on topics such as handling of mail, database use, telephone and e-mail policies, and response to customer complaints. The Bureau will also create new procedures to better define standards for field inspections, drafting of permits and other documents, and database management. The manual will serve as the basis for development of a formal process for training new staff and to retrain existing staff. (In the past turnover of Wetlands Bureau staff has been high, requiring an almost constant effort to train new staff.) The Bureau expects to complete development of this manual by the end of 2002.

**Finalize the Wetlands Compliance Assurance Response Policy (WETCARP).** The Bureau's enforcement staff is completing a policy to ensure a consistent and timely approach to violations of wetland statutes and rules. Once adopted, the WETCARP will be the first program-specific enforcement policy within DES. Additionally, the Bureau will finalize a written policy for coordination between the permitting and enforcement sections of the Bureau.

**Develop procedures, including an MOA with the Department of Transportation (DOT), to improve existing mechanisms for the review and mitigation of the wetlands impacts of transportation projects.** Transportation projects are unique in that the time frames for planning, design, and construction are typically long and the interaction between local, state and federal government agencies is significant. DES is working with DOT to develop a better method of coordinating the development and review of these projects, and expects to finalize this process in 2003 with the execution of an MOA. The Bureau is working to refine a joint public hearings procedure with DOT and the Army Corps of Engineers so as to combine and expedite the public hearing process.

**Improvements to the Wetlands Bureau Database.** Working with the Department's Information Resource Management Unit, the Bureau has made substantial improvements to its database over the last four years. However, the existing FoxPro database does not fully serve the needs of the Bureau and the Bureau is currently working to convert the database to Oracle based programming. This new database will provide significant improvements and abilities for tracking all aspects of the program and the ability to integrate and share data with other programs within DES.

# **Appendix B**

## **NHDES WETLANDS PROGRAM**

### **Outreach Materials – Fact Sheets**





# Got Permits?

- Your construction project may require a state permit from the New Hampshire Department of Environmental Services above and beyond any local permits needed.
- For projects that do not require a permit, there may be guidelines you must follow during construction.
- Contact the NHDES at the numbers below for more information.

**A five minute phone call could save you time and money!**

PRIOR TO...	WHEN WORKING HERE...	YOU NEED THIS APPROVAL...	FROM...	CONTACT
INSTALLING A DOCK OR ANY OTHER TYPE OF SHORELINE STRUCTURE	ANY SURFACE WATER INCLUDING ITS BANKS	WETLANDS PERMIT	NHDES WETLANDS BUREAU	(603) 271-2147 www.des.state.nh.us/wetlands wetmail@des.state.nh.us
IMPACTING THE BANK OF ANY WATERBODY, I.E. STABILIZATION OR CONSTRUCTION	WITHIN THE BANKS OF ANY SURFACE WATER			
ADDING SAND TO A BEACH OR CONSTRUCTING A NEW BEACH	ADJACENT TO ANY SURFACE WATER			
DREDGE, FILL, OR CONSTRUCTION	ANY JURISDICTIONAL WETLAND, TIDAL BUFFER ZONE, OR SAND DUNE			
TREE CUTTING	WITHIN 150 FT. OF PUBLIC WATERS	MUST MEET SHORELAND PROTECTION MINIMUM STANDARDS	NHDES SHORELAND PROTECTION (WETLANDS BUREAU)	(603) 271-7109 www.des.state.nh.us/cspsa wetmail@des.state.nh.us
APPLYING FERTILIZER	WITHIN 250 FT. OF PUBLIC WATERS			
CONSTRUCTING AN ACCESSORY STRUCTURE SUCH AS A UTILITY SHED OR DRIVEWAY.				
BUILDING OR EXPANDING A RESIDENTIAL DWELLING				
EARTH MOVING OR EXCAVATION WITH AN IMPACT < 50,000 SQUARE FEET				
TREE CUTTING	ANYWHERE	MUST MEET BEST MANAGEMENT PRACTICES FOR TIMBER HARVESTING	NHDES SITE SPECIFIC PROGRAM	(603) 271-2303 www.des.state.nh.us/sitespecific
EARTH MOVING OR EXCAVATION WITH AN IMPACT > 50,000 SQUARE FEET	WITHIN 250 FT. OF PUBLIC WATERS	ALTERATION OF TERRAIN PERMIT		
EARTH MOVING OR EXCAVATION WITH AN IMPACT > 100,000 SQUARE FEET	ANYWHERE			
EXECUTING A PURCHASE AND SALES AGREEMENT ON DEVELOPED WATERFRONT	WITHIN 200 FT. OF TIDAL WATERS OR A GREAT POND WITHOUT MUNICIPAL SEWER	SITE ASSESSMENT STUDY	NHDES SUBSURFACE SYSTEMS BUREAU	(603) 271-3501 www.des.state.nh.us/ssb blehneman@des.state.nh.us
BUILDING A RESIDENTIAL DWELLING, ADDING BEDROOMS, OR EXPANDING LIVING SPACE	ANYWHERE NOT SERVICED BY MUNICIPAL SEWER	CONSTRUCTION APPROVAL & OPERATIONAL APPROVAL		
SUBDIVIDING LAND, FOR SINGLE FAMILY, CONDOMINIUM, APARTMENT, OR CAMPGROUND.	ANYWHERE NOT SERVICED BY MUNICIPAL SEWER	STATE SUBDIVISION APPROVAL		
INSTALLING A WELL CLOSER THAN 75 FEET TO A PROPERTY LINE	ANYWHERE	MUST FILE A RECORDED WELL RELEASE		
SUPPLYING WATER FOR 25 OR MORE PEOPLE 60 OR MORE DAYS PER YEAR	ANYWHERE NOT SERVICED BY MUNICIPAL WATER	WATER SUPPLY ENGINEERING PERMIT	NHDES WATER SUPPLY ENGINEERING	(603) 271-2513 www.des.state.nh.us/wseb

NHDES 6 HAZEN DRIVE PO Box 95 CONCORD NH 03301 (603) 271-3503 [www.des.state.nh.us](http://www.des.state.nh.us)

Printed material on these subjects is available from the DES Public Information Center at (603) 271-2975

This chart is intended to include the most common building project types. It is the responsibility of the builder to understand the laws and rules of any given project.





## Off-Road Vehicles And Wetlands

**Wetlands & Surface Waters Are Protected Under New Hampshire State Laws: RSA 482-A and RSA 485-A.**

**To protect wetlands resources, including wildlife and water quality:**



**Do not drive ATVs through wetlands.**

**Rutting in wetlands = Dredging  
All dredging requires a permit.**



**Driving through water creates a water quality violation.**

**Avoid sensitive and restricted areas at all times, especially wetlands, lakeshores, steep stream banks and hills.**



**Violations of the law and administrative rules are punishable by administrative fines:**

- Up to \$2,000 per violation**
- Up to \$10,000 per violation for willful violations.**



**Violators may be required to restore damages which result from such activities.**

**Contact the NH Department of Environmental Services –  
Wetlands Bureau for more information:**

**(603) 271-2147**

**[www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands)**



# Environmental Fact Sheet



## WB-10

---

### The DES Wetlands Bureau Review of Pond Construction Applications

All projects involving dredge, fill or the placement of structures in or within the banks of wetlands or surface waters require a permit from the Department of Environmental Services (DES) Wetlands Bureau. The Administrative Rules under which the Wetlands Bureau functions, require that wetlands impacts be avoided wherever possible. Ponds should be designed with this requirement in mind, placing as much of the proposed pond as possible in upland areas. An application must be submitted to the Wetlands Bureau for any wetlands impacts which can not be avoided.

Pond construction projects are classified for review as follows:

#### MAJOR IMPACT PONDS

- Any disturbance of more than 20,000 square feet;
- Disturbs more than 200 linear feet of stream channel and/or bank;
- Any pond proposed in any bog, sand dune, tidal wetland or within 100 feet of the highest observable tideline;
- Any pond proposed in or adjacent to prime wetlands;
- Any pond proposed in an area with recorded occurrences of threatened or endangered species.

#### MINOR IMPACT PONDS

- Disturbance of less than 20,000 square feet which:
  - Disturbs less than 200 linear feet of stream channel and/or bank;
  - Is not located in any bog, sand dune or tidal wetland;
  - Is not in or adjacent to prime wetlands;
  - Is not in an area with recorded occurrences of threatened or endangered species.

#### MINIMUM IMPACT PONDS

- Disturbance of less than 20,000 square feet which:
  - Disturbs no hydric A soils;
  - Has no streams flowing into or out of the proposed pond;
  - Is not in or adjacent to prime wetlands;
  - Is not in an area with recorded occurrences of threatened or endangered species

or

- Disturbance of less than 3,000 square feet of swamp or wet meadow which:
  - Disturbs less than 50 linear feet of intermittent stream channel;
  - May include hydric A soils;
  - May have streams flowing into or out of the proposed pond;
  - Is not in or adjacent to prime wetlands;
  - Is not in an area with recorded occurrences of threatened or endangered species.

### For Quicker Application Review...

1. The pond design should minimize or avoid impacts to wetlands and streams wherever possible.
2. The appropriate application form should be submitted complete with all of the requested attachments (USGS map with property labeled, copy of tax map with property and abutters labeled, color photographs of the project site, filing fee and plans).
3. Applications should include overview plans and cross-sections, showing the boundaries of all wetlands and surface waters on site, the pond depth, the limits of construction, siltation and erosion controls and a construction sequence.
4. All plans and cross-sections must either include project dimensions or be drawn to scale.
5. If a dam is to be greater than 4 feet in height or will impound more than 2 acre feet of water, a separate application must be submitted to the DES Dam Safety Bureau.
6. Bank slopes should be less than 3:1 and preferably less than 4:1.
7. Plans should indicate that dredge spoils will be disposed in upland areas outside of the Wetlands Bureau's jurisdiction.
8. A wildlife pond should include areas of shallow water (less than 2 feet deep) where emergent marsh vegetation can grow.

### Filing Fees

All minimum impact project applications must include the minimum \$50 filing fee. The filing fee for minor and major impact applications is based on the area of impact. It is calculated as the square footage of impact multiplied by \$0.04 with a minimum filing fee of \$50. For instance, an application for a 1 acre pond that would involve damming or dredging that would impact 400 feet of a two foot wide seasonal stream (800 square feet) and no wetlands would cost \$50; if the same pond also impacted 3200 square feet of adjacent wetlands (4000 square feet total) the fee would be \$100.60; if the entire pond was in wetlands (43,560 square feet of impact), the fee would be \$1742.40. Checks for filing fees should be made payable to the *Treasurer, State of New Hampshire* and enclosed with the application.

### Ways to Minimize and Avoid Impacts

1. Locate all of the wetland boundaries prior to designing the pond to establish a clear picture of the alternatives for the site.
2. Locate the pond in uplands.
3. When water must be diverted from another source, culverts may be used as inflow and outflow structures, this proposal results in smaller point disturbances along the bank of

the source waterbody, rather than the larger impact of diverting an entire stream or dredging the length of the banks to widen the stream to the desired dimensions. Culvert intakes should be placed in the source at level which will ensure that a minimum flow will be maintained in the source throughout the year.

### **For More Information**

If you have any questions or would like to request copies of the application forms or Administrative Rules Chapters Wt 100-800, please contact the DES Wetlands Bureau at (603) 271-2147, PO Box 95, Concord NH 03302-0095, or visit our homepage at <http://www.des.state.nh.us/wetlands>.

# Environmental Fact Sheet



## WB-11

---

### The DES Wetlands Bureau Review of Bank/Shoreline Stabilization Applications

All projects involving dredge, fill or the placement of structures in, or within the banks of, wetlands or surface waters require a permit from the Department of Environmental Services (DES) Wetlands Bureau. The Administrative Rules (Chapters Wt 100-800) under which the Wetlands Bureau operates require that impacts to jurisdictional areas be avoided whenever possible and kept to a minimum in all other situations. In keeping with this requirement, Part Wt 404 requires the applicant to use the least intrusive stabilization method, with vegetative stabilization being the least impacting method, followed by rip-rap, then retaining wall construction which is considered the most impacting alternative.

**Vegetative stabilization**, the preferred method of stabilization, may involve seeding and mulching, or it could involve regrading the bank to a gentler slope which is to be seeded or planted with native plant species. Rip-rap may be considered if it can be shown that vegetative stabilization methods are incapable of holding the soils and there is insufficient room to regrade the bank. Rip-rap is not a freestanding structure, it is stone placed against a grade. All plans for rip-rap in excess of 100 linear feet along a stream or river must be stamped by a licensed engineer. However, it is recommended that an engineer be consulted for any rip-rap project. The last alternative considered for bank stabilization is construction of a retaining wall. Before a retaining wall can be approved, it must be shown that it is the only practical and effective method of stabilization for the site. All proposals for retaining walls must include plans which identify the high water line, the footprint of the wall, and the distance from the wall to the property lines. All plans for rip-rap or retaining walls adjacent to great ponds or surface waters where the state holds fee simple ownership must be stamped by a licensed surveyor.

**PLEASE NOTE:** While bank stabilization may be permissible the DES Wetlands Bureau typically does not authorize the reclamation of land lost to erosion.

Shoreline/bank stabilization projects are classified for review as follows:

#### MAJOR IMPACT PROJECTS

- Any disturbance of more than 20,000 square feet;
- Any construction or modification of a retaining wall lakeward of the high water line, including any refacing of a retaining wall that adds more than 6 inches in width;

- Any disturbance of more than 200 linear feet of shoreline, stream channel and/or bank;
- Any project in a bog, sand dune, tidal wetland or within 100 feet of the highest observable tideline;
- Any project in or adjacent to prime wetlands;
- Any project in an area with recorded occurrences of threatened or endangered species.

### **MINOR IMPACT PROJECTS**

- Disturbance of less than 20,000 square feet which:
  - Disturbs less than 200 linear feet of shoreline, stream channel and/or bank;
  - Is not located in any bog, sand dune or tidal wetland;
  - Is not in or adjacent to prime wetlands;
  - Is not in an area with recorded occurrences of threatened or endangered species;
- Refacing or repair of retaining walls which requires that work be done below the surface of the water, provided that refacing does not add more than 6 inches in width.

### **MINIMUM IMPACT PROJECTS**

- Disturbance of less than 3,000 square feet which:
  - Disturbs less than 50 linear feet of lake or pond shoreline or intermittent stream channel;
  - Does not involve work below high water;
  - Is not in or adjacent to prime wetlands;
  - Is not in an area with recorded occurrences of threatened or endangered species.
- Maintenance of existing structures with the exception of retaining wall repair as previously listed under major and minor impact projects.

### **For Quicker Application Review**

1. Choose the least impacting stabilization method possible for the site.
2. The appropriate application form should be submitted complete, with all of the requested attachments (USGS map with property labeled, copy of tax map with property and abutters labeled, color photographs of the project site, filing fee and plans).
3. In accordance with Rule Wt 404.04, applications for rip-rap should include overview plans and cross-sections bearing the appropriate professional's stamp(s), showing the boundaries of all wetlands and surface waters on site, minimum and maximum stone size, proposed grade, rip-rap thickness, type of bedding, the distance of the project from fixed points on site, the high water line, the limits of construction, siltation and erosion controls, and a construction sequence.
4. In accordance with Rule W.T. 404.05, applications for retaining walls should include overview plans and cross-sections bearing the appropriate professional's stamp(s), showing the boundaries of all wetlands and surface waters on site, the distance of the project from fixed points on site, the high water line, the limits of construction, siltation and erosion controls, and a construction sequence.
5. All plans and cross-sections must include existing and proposed conditions with dimensions or be drawn to scale.
6. Plans should indicate that dredge spoils will be disposed in upland areas outside of the Wetlands Bureau's jurisdiction.
7. Schedule construction during a period of low water.

## **Filing Fees**

All minimum impact project applications must include the minimum \$50 filing fee. The filing fee for minor and major impact applications is based on the area of impact. It is calculated as the square footage of impact multiplied by \$0.04 with a minimum filing fee of \$50.

## **For More Information**

If you have any questions or would like to request copies of the application forms or Administrative Rules Chapters 100-800, please contact the DES Wetlands Bureau at (603) 271-2147, PO Box 95, Concord NH 03302-0095, or visit our homepage at <http://www.des.state.nh.us/wetlands>.



# **Appendix C**

## **NHDES WETLANDS PROGRAM**

**Forestry Notification Form  
Seasonal Dock Notification Form**



# DEPARTMENT OF ENVIRONMENTAL SERVICES

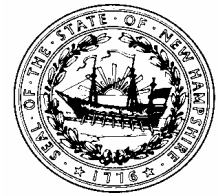
## WETLANDS BUREAU

6 Hazen Drive, PO Box 95

Concord, NH 03302-0095

Phone: (603) 271-2147 Fax: (603) 271-6588

web site: [www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands) email: [wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us)



# Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact

Please circle YES or NO to respond to each question. **Bold-faced terms** are defined on the attached page.

<p>1. Will the proposed forest management activity be in or adjacent to a municipally <b>designated prime wetland</b>, or cross any <b>wetland</b> or <b>surface water</b>? If NO, then you do not need to file this form or any other wetlands application. If YES, continue.</p>	<p>Yes      No</p>
<p>2. Will the construction of all crossings follow the <b>Best Management Practices (BMPs) for Erosion Control on Timber Harvesting Operations in New Hampshire</b>? Please note, for DES purposes BMPs are mandatory [Rules Wt 304.05(b),(c)].</p>	<p>Yes      No</p>
<p>3. Is land being cleared in preparation for subdivision, development, or conversion to non-forestry use?</p>	<p>Yes      No</p>
<p>4. Is the proposed activity in <b>bogs, marshes</b>, sand dunes, tidal wetlands, undisturbed tidal buffer zones, a wetland identified by the <b>Natural Heritage Inventory</b>, or in or adjacent to <b>designated prime wetlands</b>?</p>	<p>Yes      No</p>
<p>5. Does any crossing exceed any of the following criteria?</p> <ul style="list-style-type: none"> <li>➤ For installation of a permanent culvert and associated fill, rock ford, or temporary crossing: <ul style="list-style-type: none"> <li>a) Is the width of the roadway travel surface at the crossing more than 20 feet (from edge of road to edge of road)?</li> <li>b) Is the fill width more than 50 feet from <b>toe of slope</b> to toe of slope?</li> <li>c) Is the length of any <b>forested wetland</b> or <b>wet meadow</b> crossing (measured along the proposed access way) more than 50 feet?</li> <li>d) Is the length of any <b>surface water</b> crossing (measured from base of bank to base of bank) more than 10 feet?</li> <li>e) Do the <b>wetlands</b> that are being crossed have <b>standing water</b> for more than two months of the year?</li> </ul> </li> <li>➤ For installation of a bridge: <ul style="list-style-type: none"> <li>a) Is any work proposed in the water?</li> <li>b) Does the fill for the abutment(s) exceed 3,000 square feet in the banks of the stream?</li> </ul> </li> <li>➤ For installation of a temporary road through forested wetlands during frozen conditions, constructed of snow or inverted stumps: <ul style="list-style-type: none"> <li>a) Is the road travel surface more than 15 ft. wide or 200 feet long?</li> </ul> </li> </ul>	<p>Yes      No Yes      No Yes      No Yes      No Yes      No Yes      No Yes      No Yes      No</p>

If you answered **YES** to any of the questions numbered 3, 4, or 5, you must file a different **wetlands application** (see Definitions of Terms - **wetlands applications** - for more information) and no work in wetlands or surface waters may be done until you receive a permit from the DES Wetlands Bureau. If you answered **NO** to all questions numbered 3, 4, or 5, complete the remaining sections of the application (on the reverse side).

6. Location of Timber Harvest or Forest Management Activity (should agree with *Notice of Intent to Cut*)

\_\_\_\_\_  
Street                                      Town or City                                      Tax Map #                                      Lot #

7. Property owner's name, mailing address, telephone number, and zip code. (Failure to provide this information may cause this notification to be considered incomplete.)

\_\_\_\_\_  
Property Owner's Name                                      (\_\_\_\_\_) \_\_\_\_\_  
Telephone #

\_\_\_\_\_  
Mailing Address (Street or PO Box), Town, State, Zip Code

\_\_\_\_\_  
Mailing Address (For DES to send the **Confirmation of Complete Notification** if different from the property owner's address above.)                                      (\_\_\_\_\_) \_\_\_\_\_  
Telephone #

8. Forester's or logger's name, address and telephone number (should agree with *Notice of Intent to Cut*).

\_\_\_\_\_  
Name                                      Street Address, Town, State, Zip Code                                      (\_\_\_\_\_) \_\_\_\_\_  
Telephone #

9. Attach a copy of the **USGS topographic map** or a USDA **Natural Resources Conservation Service soils map** with the *type and location* of all temporary and permanent structures for crossing wetlands or surface waters clearly indicated. If the USGS map does not provide enough space to clearly indicate the type and location of crossings, you may submit *IN ADDITION TO THE USGS MAP*, a hand-drawn map, tax map, or cutting plan, showing the layout of property lines, skid roads and the approximate location(s) and type(s) of crossings.
10. Attach a sketch of the type of proposed crossing(s) of wetlands or surface waters. Copies of sketches from the ***Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire*** may be used if they accurately depict the proposed structure(s).
11. Attach a check for \$25.00 payable to the NH DES Wetlands Bureau.
12. Property owner's signature certifies that: a) Items 1 through 10 are correctly answered or represented; and b) all logging contractors have been directed to conform to the ***Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire***, and have been instructed to install crossings only as indicated on the attached map and sketches; c) property owner is in compliance with **RSA 79:10**.

Property Owner's Signature \_\_\_\_\_ Date \_\_\_\_\_

Mail this form, with attached map(s), sketches, and check, to:

NH DES Wetlands Bureau, PO Box 95, Concord, NH 03302-0095

If answers to and information for any of Items 1-12 are not provided, this notification will be considered INCOMPLETE and all work in wetlands or surface waters **SHOULD NOT PROCEED**. Work conducted without filing a complete notification may be cause for DES enforcement action. Work may proceed upon proper filing of a COMPLETE notification. DES will issue a ***Confirmation of Complete Forestry Notification*** if the Notification that you submitted is complete. The ***Confirmation SHOULD BE POSTED AT THE LANDING***. Copies of the notification are sent to the district forest rangers and conservation commissions.

**FOR DES OFFICE USE ONLY:**

Fee Received \_\_\_\_\_ \$ \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Check #                                      Amount                                      Init.                                      Dated                                      File #                                      Dist Forest Ranger #  
Check Submitted by: \_\_\_\_\_ Date Received: \_\_\_\_\_

## Definitions of Terms - Notification of Forest Management and Timber Harvest Activities Having Minimum Wetlands Impact

**Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire (February 2000)** - The manual developed by the New Hampshire Department of Resources and Economic Development (DRED) which addresses the best management practices for reducing soil erosion and controlling sedimentation from timber harvesting activities. Copies are available at no charge from DRED, 172 Pembroke Road, Concord, NH 03301, phone: (603) 271-2214, [www.nhdfi.com/publications/div\\_publications.htm](http://www.nhdfi.com/publications/div_publications.htm); or UNH Cooperative Extension, Durham, NH 03824, phone: (603) 862-1028, or from the DES Wetlands Bureau (see Wetlands Applications below)

**Bog** - A wetland distinguished by stunted evergreen trees and shrubs, peat deposits, and acidic soil and water conditions. Bogs generally have no inlet or outlet. Sphagnum moss may be abundant. *The Notification form may not be used for any crossings or activities in bogs.*

**Designated Prime Wetland** - A wetland designated by a municipality as requiring special protection in accordance with Wt 700. Projects in or adjacent to prime wetlands are classified as major projects. *The Notification form may not be used for any crossings or activities in or adjacent to prime wetlands. If you are not sure whether or not the project is adjacent to a designated prime wetland, please call the DES Wetlands Bureau, 603-271-2147.* Check with the town office or DES for the locations of these wetlands. As of April 2002, municipalities with designated prime wetlands are: Andover, Barrington, Bow, Brookline, Derry, Enfield, Exeter, Gilford, Holderness, Hooksett, Meredith, Nashua, New London, Pelham, Salem, Sanbornton, Sandwich, Tamworth, Weare, and Wolfeboro.

**Forested wetland** - A wetland where trees 20 feet and taller are the dominant plants. Typical trees are red maple, green ash, black willow, American elm, balsam fir, black spruce, tamarack and sometimes hemlock and white pine. May also be called a swamp.

**Marsh** - A wetland distinguished by the: 1) absence of trees and shrubs; 2) dominance of soft-stemmed herbaceous plants such as cattails, grasses, reeds, and sedges; may have lily pads or pickerel weed, and 3) a water table at or above the surface which may fluctuate seasonally. *The Notification form may not be used for any crossings or activities in marshes.*

**Natural Heritage Inventory** - Information about rare, threatened, and endangered species and exemplary natural communities in New Hampshire, which is maintained by the Department of Resources and Economic Development. Call (603) 271-3623 or contact [www.dred.state.nh.us/forlands/formgt/nhiweb/](http://www.dred.state.nh.us/forlands/formgt/nhiweb/) for information.

**Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service (SCS), soils map** - A map developed as part of a soil survey, which provides information about characteristics of the soils and the suitability, limitations, and management of soils for specified uses. Contact the state NRCS headquarters (603) 868-7581 or visit your county office.

**RSA 79:10** - The statute that requires notification to assessing officials, NH Department of Revenue, and NH Department of Resources and Economic Development (Forest and Lands Division) of intent to harvest timber.

**Surface water** - Those waters of the state, as defined by RSA 482-A:4, which have standing or flowing water at or on the surface of the ground during part or all of the year. This includes, but is not limited to, rivers, streams (perennial and seasonal), lakes, ponds and tidal waters, and marshes.

**Swamp** - A wetland dominated by trees or shrubs. Typical trees are red maple, green ash, black willow, American elm, balsam fir, black spruce, tamarack and sometimes hemlock and white pine.

**Toe of Slope** - The bottom edge (base) of the road fill where it meets the flatter grade of the ground surface.

**USGS (United States Geological Survey) topographic map** - A map that uses contour lines to represent the three-dimensional features of a landscape on a two-dimensional surface. These maps use a line and symbol representation of natural and artificially created features in an area. **Map scale – 1:24,000** Maps are available at most outdoors and sporting goods stores as well as bookstores.

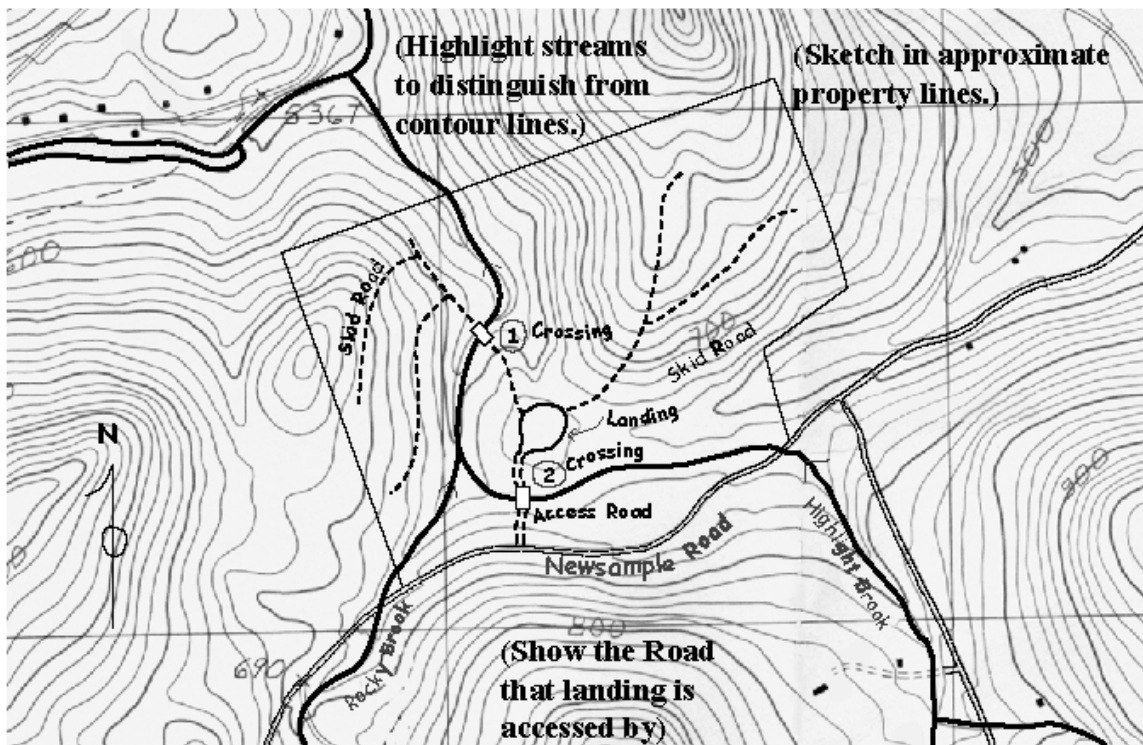
**Wetland** - An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation (more than 50%) typically adapted for life in saturated soil conditions (hydric soils). Wetlands include, but are not limited to swamps, bogs, marshes and similar areas.

**Wetlands Applications** - Other forms (*Standard Dredge and Fill* or *Minimum Impact Expedited*) are used to apply for permits to work in wetlands or surface waters if the answer to question 3, 4, or 5 is "Yes." These forms can be obtained from town clerks, by calling the DES Wetlands Bureau at (603) 271-2147, or from the DES web site on the Internet at: [www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands) or by mail from: NHDES PO Box 95, Concord, NH 03302. For projects that do not qualify for the Notification of Forest Management (if there were any "Yes" answers on questions 3-5), no work in wetland or surface water may begin without obtaining and posting a DES wetlands permit.

**Wet Meadow** - An area dominated by sedges, grasses, and non-woody vegetation less than 3 feet in height, which is saturated for long periods during the growing season and may be seasonally flooded.

# Sample Sketch of Supplemental Site Map Showing Type and Location of all Wetland and Surface Water Crossings

*A sketch such as this can be submitted in addition to, not in place of, the USGS map.*



## Proposed Crossings

- ① Skidder Bridge
- ② Culvert

## Key

- Access Road
- Proposed Skid Road
- Log Landing
- Property Line (approximate)



NH DEPARTMENT OF ENVIRONMENTAL SERVICES  
WETLANDS BUREAU

6 Hazen Drive, PO Box 95

Concord, NH 03302-0095

Phone: (603) 271-2147 Fax: (603) 271-6588

web site: [www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands) email: [wetmail@des.state.nh.us](mailto:wetmail@des.state.nh.us)



## Seasonal Dock Notification for Lakes and Ponds

**Instructions:** Use the checklist below to determine if your proposed seasonal dock meets all of the criteria necessary to use this form. If it does **not** meet **all** of these criteria, you must apply for a permit using either the Minimum Impact Expedited application or Standard Dredge and Fill application form. If your dock meets all the criteria below, complete all items on this form and submit to the NH Department of Environmental Services – Wetlands Bureau.

**To use this form, the proposed seasonal dock must meet all of the following criteria:**

- ☐ Located on a lake or pond; and,
- ☐ The only docking structure on the frontage; and,
- ☐ Constructed to be removed during the non-boating season; and,
- ☐ Removed for a minimum of 5 months each year; and,
- ☐ Configured to be narrow, rectangular, and erected perpendicular to the shoreline; and,
- ☐ No more than 6 feet wide, and no more than 40 feet long if the waterbody is 1,000 acres or larger\* (See back of form for list) or no more than 30 feet long on waterbodies that are less than 1,000 acres in size; and,
- ☐ Located on a parcel of land that has 75 feet or more of **shoreline frontage (see page 2 for definition)**; and,
- ☐ Located at least 20 feet from an abutting property line or imaginary extension of the property line over the water; and,
- ☐ Installed in a manner which requires no modification, regrading, or recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged dock; and,
- ☐ Installed in a manner that complies with the N.H. Comprehensive Shoreland Protection Act (RSA 483-B).

**If stairs are proposed to access the dock, the stairs must be:**

- ☐ No more than 6 feet in width; and,
- ☐ Constructed over the bank in a manner that does not require regrading or recontouring.

**If your project complies with all of the criteria outlined above, please complete all of the following:**

**1. PROPERTY OWNER / APPLICANT INFORMATION:**

- a. Name(s) of Owner(s): \_\_\_\_\_  
Last First Middle
- b. Mailing Address: \_\_\_\_\_  
Box Number or Street Address Town/City State Zip
- c. Daytime Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

**2. SEASONAL DOCK LOCATION INFORMATION:**

- a. Location: \_\_\_\_\_  
House Number Street Name Town/City
- b. Tax Map # \_\_\_\_\_ Lot # \_\_\_\_\_ Block # \_\_\_\_\_
- c. Name of Waterbody: \_\_\_\_\_

**FOR INTERNAL USE ONLY:** Date Received: \_\_\_\_\_ Initial: \_\_\_\_\_ File # \_\_\_\_\_

### 3. SIGNATURE:

**OWNER/APPLICANT.** My signature below certifies that my dock will meet all of the required criteria. I understand that completion of this notification does not preclude the department from taking any enforcement action if the department later determines that the notification was incomplete, the facts material to the project were misstated, or that the installed dock does not meet the above criteria. I understand that this notification does not relieve me from obtaining any local permits, which may be required.

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Name (print legibly)

\_\_\_\_\_  
Date

### 4. Submit this completed notification form to:

#### NH DEPARTMENT OF ENVIRONMENTAL SERVICES - WETLANDS BUREAU

6 Hazen Drive

PO Box 95

Concord, NH 03302-0095

Phone: (603) 271-2147 Fax: (603) 271-6588

**Determination of Shoreline Frontage:** To determine the length of **shoreline frontage**, add the length of the natural navigable shoreline (which may be shown on the tax map) to the length of a straight line drawn between the two side property boundaries at the shoreline edge, and divide by two. (Both lengths are measured at the normal high water line.)

**Notice of Incompleteness:** If the application is incomplete or does not qualify for the notification process, the Wetlands Bureau will send a Notice of Incompleteness, which would list any reasons for disqualification to the owner noted on this form.

**NOTE:** If DES considers your notification complete, no further correspondence will be sent to you. You may wish to check the "Wetland Permits Query" on DES Wetlands Bureau's web site to view the notification number and verify that it has been considered complete ([www.des.state.nh.us/wetlands](http://www.des.state.nh.us/wetlands)).

**For More Information:** If you have questions regarding this seasonal dock notification process, please contact the Wetlands Bureau at (603) 271-2147 or visit the DES Wetlands Bureau's web site at: <http://www.des.state.nh.us/wetlands>.

\* The following waterbodies are more than 1,000 acres in size. An owner of 75 feet of shoreline frontage on these waterbodies may have a seasonal dock that measures up to 6 feet in width and 40 feet in length:

Bow Lake	Lake Winnepesaukee	Ossipee Lake
Conway Lake	Mascoma Lake	Paugus Bay
Comerford Storage	Massabesic Lake	Province Lake
Connecticut Lake (1st Connecticut Lake (2nd)	Merrymeeting Lake	Squam Lake
Great East Lake	Monomonac Lake	Sunapee Lake
Lake Umbagog	Moore Reservoir	Vernon Dam
Lake Wentworth	Newfound Lake	Winnisquam Lake

Please note that for the following waterbodies the state has fee-simple ownership or flowage rights, which may affect an applicant's ability to place a dock on the shoreline frontage. If your proposed seasonal dock would be on one of these waterbodies, before you submit this notification form, contact the DES Land Agent in the Dam Bureau for more information (603) 271-1960. The waterbodies are:

Deering Reservoir	Glen Lake (Gregg Falls)	Lake Horace (also known as Weare Reservoir)
Francis Lake (No docks allowed at all)	Goose Pond (Hanover/Canaan)	Winnisquam Lake (Lochmere Dam)

03/17/03

# **Appendix D**

## **NHDES WETLANDS PROGRAM**

Legislation Passed in 2002 Session



## CHAPTER 272

### HB 1235 - FINAL VERSION

24jan02...2132h

6mar02...2703h

4/18/02 3508s

4/18/02 3651s

4/18/02 3555s

2may02...3742cofc

2may02...3792eba

### 2002 SESSION

01-2085

03/01

### HOUSE BILL ***1235***

AN ACT relative to operation of motorized vessels and safe boater education and relative to fill and dredge in wetlands.

SPONSORS: Rep. C. Christensen, Hills 18; Rep. Whalley, Merr 5

COMMITTEE: Resources, Recreation and Development

### AMENDED ANALYSIS

This bill:

I. Makes laws relative to safe boater education and the minimum age of operation of motorized vessels apply only to the operation of vessels with greater than 25 horsepower. Currently, these laws apply only to the operation of vessels with greater than 15 horsepower.

II. Limits when a person under 16 years of age may not operate a motorized vessel.

III. Limits the issuance of safe boater certificates to persons 16 years of age or older.

IV. Directs certain fees to the navigation safety fund.

V. Requires the department of safety to submit an annual report on the division of safety services.

VI. Eliminates the boat safety fund.

VII. Eliminates the boating safety registration checklist.

VIII. Defines "boat slip" and "structure" for purposes of the fill and dredge in wetlands laws.

IX. Exempts temporary seasonal docks from the excavating and dredging permit requirement.

X. Modifies the requirements for the repair and reconstruction of certain dwellings over water.

XI. Establishes an exception to the headway speed requirement for portions of the Androscoggin and Magalloway Rivers.

XII. Requires the commissioner of environmental services to adopt rules relative to fill and dredge in wetlands which establish an expedited application and permitting process and which identify fill and dredge activities which RSA 482-A exempts from the permitting requirements.

-----

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24jan02...2132h

6mar02...2703h

4/18/02 3508s

4/18/02 3651s

4/18/02 3555s

2may02...3742cofc

2may02...3792eba 01-2085

03/01

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Two*

AN ACT relative to operation of motorized vessels and safe boater education and relative to fill and dredge in wetlands.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

272:1 Operation of Boats; Minimum Age for Operation; Horsepower. Amend RSA 270:30 to read as follows:

270:30 Minimum Age for Operation. No person ***under*** 16 years of age [~~or under~~] shall operate a motorized vessel having power in excess of [~~15~~] **25** horsepower on the public waters of this state unless the person [~~has a valid safe boater education certificate; or~~] is accompanied by a person 18 years of age or older who has a valid safe boater education certificate, and such person shall be liable for personal injury or property damage which may result from such operation. Whoever violates this section shall be guilty of a violation.

272:2 Safe Boater Education; Certificate Required; Horsepower. Amend RSA 270-D:10, I to read as follows:

I. No person born on or after the dates provided in this section shall operate a motorized vessel with any type of power motor in excess of ~~[15]~~ **25** horsepower on the public waters of this state without first obtaining a certificate of boating safety education in accordance with this subdivision:

Date of Birth Certificate Required

January 1, 1983 January 1, 2002

January 1, 1977 January 1, 2003

January 1, 1973 January 1, 2004

January 1, 1967 January 1, 2005

January 1, 1963 January 1, 2006

January 1, 1957 January 1, 2007

All January 1, 2008

272:3 Safe Boater Education; Possession Required, Penalty; Horsepower. Amend RSA 270-D:11, I(a) to read as follows:

(a) Possess the certificate when operating a motorized vessel with any type of power motor in excess of ~~[15]~~ **25** horsepower on the public waters of the state.

272:4 Issuance of Safe Boater Education Certificate; Age Inserted. Amend the introductory paragraph of RSA 270-D:13, I to read as follows:

I. The commissioner or designee shall issue a safe boater education certificate to a person **16 years of age or older** who:

272:5 New Paragraph; Issuance of Safe Boater Education Certificate; Issuance Upon Attaining Age 16. Amend RSA 270-D:13 by inserting after paragraph III the following new paragraph:

IV. Any person who successfully completes a safe boater education course or safe boater equivalency examination after reaching the age of 15 shall be issued a safe boater education certificate upon attaining the age of 16.

272:6 Safe Boater Education; Temporary Certificate; Age Inserted. Amend RSA 270-D:14 to read as follows:

270-D:14 Temporary Certificate. The commissioner, or designee, shall issue a temporary certificate of safe boating education to a person **16 years of age or older** who passes a temporary safe boater examination administered by the department or its agents and approved by the commissioner. The temporary certificate of safe boater education shall be valid for up to 14 days and shall entitle the holder only to operate a vessel on the public waters of New Hampshire. Any dealer or renter of boats or employee thereof, who has passed the boating safety education course as provided in RSA 270-D:13, I(a) and is approved by the commissioner, may administer the temporary safety examination and issue a temporary certificate.

272:7 Safe Boater Education; Course Fee; Navigation Safety Fund. Amend RSA 270-D:17 to read as follows:

270-D:17 ~~[Course Fee]~~ **Fees.**

***I.(a) The department shall charge a fee of \$10 for issuing a safe boater education certificate.***

***(b) The fee for a temporary certificate shall not exceed \$5.***

***II.(a) The department~~[, or its agents,]~~ may charge a fee for*** offering a safe boater education course or exam ~~*[may charge a fee]*~~. The fee shall not exceed the costs incurred by the department~~[, or its agents,]~~ in offering the course or exam ~~*[and shall not exceed \$50]*~~.

***(b) Agents of the department may charge a fee for offering a safe boater education course or exam. The commissioner shall establish by rule the maximum fees that may be charged by agents.***

***III. The total of all fees that a person may be required to pay under this section shall not exceed \$50.***

***IV. Fees collected by the department under this section shall be paid into the navigation safety fund established under RSA 270-E:6-a.***

272:8 Safe Boater Education; Voluntary Attendance. Amend RSA 270-D:19 to read as follows:

270-D:19 Voluntary Attendance. Nothing in this ~~[section]~~ ***chapter*** shall prohibit any person ***who is 16 years of age or older*** from attending a safe boater education course approved by the commissioner under this subdivision and obtaining a safe boater education certificate upon successful completion of the safe boater education course, prior to dates indicated on the phase-in schedule.

272:9 New Section; Department of Safety; Division of Safety Services Report and Budget. Amend RSA 21-P by inserting after section 10-a the following new section:

21-P:10-b Division of Safety Services Report and Budget.

I. The department of safety shall submit an annual report, beginning on July 1, 2002, to the speaker of the house, president of the senate, and the governor and council which shall include, but not be limited to, training and educational programs offered or contracted by the division of safety services, the revenue generated from safe boater education certificates, and the budget and revenue projections of the division.

II. In addition to or in conjunction with the operating budget of the department of safety, the department shall submit a budget for the biennium beginning July 1, 2003, and for each biennium thereafter, which shall include financial responsibility for and the costs of all training and educational programs offered or contracted by the division of safety services, the revenue generated from safe boater education certificates, and all revenues and expenditures of the navigation safety fund established in RSA 270-E:6-a.

272:10 Boat Safety Course; Boat Safety Fund Changed to Navigation Safety Fund. Amend RSA 270:46-a to read as follows:

270:46-a ~~[Boat Safety Fund,]~~ Boat Safety Course.

I. In addition to any other penalty imposed, any person who is convicted of violating any of the following boating laws or rules of the division of safety services shall be assessed an administrative penalty of \$200 to be paid to the director of safety services who shall forward such sum to the state treasurer for deposit in the ~~[boat]~~ ***navigation*** safety fund ***established under RSA 270-E:6-a***:

(a) RSA 270:12-b, disobeying an officer.

(b) RSA 270:29-a, careless and negligent operation of boats.

(c) RSA 270:50, refusal of consent.

(d) RSA 270:48-a, operating boats under the influence of liquor or drugs.

II. Any person who pays such penalty and who, within 6 months of conviction, completes at such person's own expense a boat safety course as specified in rules adopted, under RSA 541-A, by the director of safety services shall have his *or her* \$200 refunded to him *or her* from the ~~[boat]~~ **navigation** safety fund by the director. ~~[All moneys deposited in the boat safety fund shall be continually appropriated to the division of safety services.]~~

III. In addition to any other penalty imposed, any person who is convicted of violating any of the following boating laws or rules of the division of safety services, and who has not already successfully completed an approved boating safety course shall complete a boat safety course, at that person's own expense, within 6 months of conviction. Any person who fails to complete the boat safety course within 6 months may be prevented from reregistering the boat:

(a) Laws or rules relative to speed limit, safe passage, or personal flotation devices.

(b) RSA 270:37, decibel limits on noise.

272:11 Boating Safety Checklist; Registration Checklist Deleted. Amend RSA 270-D:2-c to read as follows:

270-D:2-c Boating Safety Checklist.

~~I. [(a) No person shall register a vessel for operation on any waters of this state, including tidal and coastal waters and all inland waters, unless the registrant initials the checklist portion of the registration form, prepared by the department of safety, which certifies the registrant's knowledge of boating safety laws.~~

~~(b)]~~ No person shall rent a vessel for operation on any waters of this state, including tidal and coastal waters and all inland waters, unless the rental operator initials a rental safety checklist, prepared by the department of safety, which certifies the rental operator's knowledge of boating safety laws.

II.(a) The ~~[registration checklist and]~~ rental safety checklist shall include, but shall not be limited to, knowledge of the following provisions of the marine laws:

(1) Safe passage.

(2) DWI.

(3) Headway speed.

(4) Safety equipment.

(5) Navigational lights requirements.

(b) The checklists shall include a provision which states that the ~~[registrant or]~~ rental operator is responsible for anyone who operates the vessel in accordance with RSA 270-D.

III. The ~~[registration checklist and]~~ rental safety checklist shall include a provision in which the ~~[registrant]~~ **operator** acknowledges that the director may require the ~~[registrant or]~~ operator to attend a boat safety course, as provided in RSA 270:46-a, for violating any of the boating laws or rules of the division.

272:12 Repeal. RSA 6:12, I(z), relative to the boat safety fund, is repealed.

272:13 New Subparagraph; General Rules for Vessels Operating on Water; Headway Speed; Exception Added. Amend

RSA 270-D:2, VI by inserting after subparagraph (c) the following new subparagraph:

(d) The requirements of RSA 270-D:2, VI(a)(3) shall not apply to a vessel in the waters of the Androscoggin River from the Errol Dam to Umbagog Lake or in the waters of the Magalloway River within the state of New Hampshire.

272:14 New Paragraphs; Fill and Dredge in Wetlands; Definitions; Boat Slip, Structure. Amend RSA 482-A:2 by inserting after paragraph VII the following new paragraphs:

VIII. "Boat slip" means:

(a) On water bodies over 10,000 acres, means a volume of water 25 feet long, 8 feet wide, and 3 feet deep as measured at normal high water and located adjacent to a structure to which a watercraft may be secured.

(b) On water bodies of 10,000 acres or less, a volume of water 20 feet long, 6 feet wide, and 3 feet deep as measured at normal high water mark and located adjacent to a structure to which a watercraft may be secured.

IX. "Structure" means, notwithstanding any other provision of law, something installed, erected, or constructed, but shall not include a bench, landing with dimensions no larger than 10 feet wide by 10 feet long, or stairs with a width not exceeding 6 feet, provided that such benches, landings, or stairs are installed, erected, or constructed without regrading or recontouring of the shoreline and are not over water. Structures include, but are not limited to, the following: fence, dock, breakwater, post, pile, building, bridge, culvert, and wall.

272:15 New Paragraph; Excavating and Dredging Permit; Exemptions; Temporary Seasonal Docks. Amend RSA 482-A:3 by inserting after paragraph IV the following new paragraph:

IV-a. Temporary seasonal docks constructed on any lake or pond shall be exempt from the permitting requirements of this section, provided that a notification is sent to the department that includes the name and address of the owner of the property, the municipality, the waterbody, and tax map and lot number on which the proposed dock will be located. To qualify for an exemption under this paragraph, a temporary seasonal dock shall be:

(a) The only docking structure on the frontage;

(b) Constructed to be removed during the non-boating season;

(c) Removed for a minimum of 5 months of each year;

(d) Configured to be narrow, rectangular, and erected perpendicular to the shoreline;

(e) No more than 6 feet wide and no more than 40 feet long if the water body is 1,000 acres or larger, or no more than 30 feet long if the water body is less than 1,000 acres;

(f) Located on a parcel of land that has 75 feet or more of shoreline frontage;

(g) Located at least 20 feet from an abutting property line or the imaginary extension of the property line over the water;

(h) Installed in a manner which requires no modification, regrading, or recontouring of the shoreline, such as installation of a concrete pad for construction of a hinged dock; and

(i) Installed in a manner which complies with RSA 483-B.

272:16 Fill and Dredge of Wetlands; Dwellings Over Water; Existing Dwellings. Amend RSA 482-A:26, III to read as follows:

III.(a) Existing dwellings over water which were constructed or converted to be made suitable for use as a dwelling in accordance with the law in effect at the time of construction or conversion, may be repaired or reconstructed, for maintenance purposes only, using any modern technologies, provided the result is a functionally equivalent use. Such repair or reconstruction may alter the interior design or existing cribwork, but no expansion of the existing footprint or outside dimensions shall be permitted. A condition of RSA 482-A:3 approval shall be the existence or installation of a sewage disposal system which has been approved pursuant to RSA 485-A:29-44. No permit shall be required for routine maintenance that does not involve work in the water.

*(b) Without otherwise limiting the provisions of this section, where the effect of repair or reconstruction of a structure subject to the provisions of this section represents greater protection of public water or the environment and where such repair or reconstruction does not change a recreational, water-based activity to a land-based, residential or commercial activity, the commissioner may waive the existing standards, provided that there shall be no expansion of the existing footprint, outside dimensions, and square footage of floor space; and there shall be a net reduction in the total square footage of kitchen, bathroom, shower, and toilet facilities.*

272:17 Fill and Dredge in Wetlands; Notification for Certain Minimum Impact Projects; Rulemaking Authority for Activities not Requiring a Permit. Amend RSA 482-A:11, VI to read as follows:

VI. The commissioner ~~[may]~~ **shall** adopt rules pursuant to RSA 541-A establishing an expedited application and permitting process **or permit by notification process** for certain minimum ~~[and minor]~~ impact projects. The provisions of RSA 482-A:3, I and paragraph III of this section shall apply.

*VII. The commissioner shall adopt rules, pursuant to RSA 541-A, identifying those activities within the jurisdiction of RSA 482-A that may be conducted without obtaining a permit, consistent with the provisions of this chapter.*

*VIII. The commissioner shall adopt rules pursuant to RSA 541-A relative to the waiver of existing standards provided for in RSA 482-A:26, III(b). Such rules shall list the specific criteria to be used by the commissioner in determining whether a waiver will be granted.*

272:18 Administrative Provisions; Permit by Notification. Amend RSA 482-A:11, III to read as follows:

III.(a) Upon written notification to the department by a municipal conservation commission that it intends to investigate any notice received by it pursuant to RSA 482-A:3, the department shall suspend action upon such notice and shall not make its decision on the notice of a minor **or minimum impact** project nor hold a hearing on it if a major project until it has received and acknowledged receipt of a written report from such commission, or until 40 days from the date of filing with the municipal clerk of such notice, whichever occurs earlier, subject to an extension as permitted by the department. In connection with any local investigation, a conservation commission may hold a public informational meeting or a public hearing, the record of which shall be made a part of the record of the department. If a conservation commission makes a recommendation to the department in its report, the department shall specifically consider such recommendation and shall make written findings with respect to each issue raised in such report which is contrary to the decision of the department. If notification by a local conservation commission pursuant to this paragraph is not received by the department within 14 days following the date the notice is filed with the municipal clerk, the department shall not suspend its normal action, but shall proceed as if no notification has been made.

*(b) Relative to any permit by notification under paragraph VI, the provisions of subparagraph (a) shall be modified as follows:*

*(1) The 40-day suspended action limit is reduced to 21 days; and*

*(2) The notification by a municipal conservation commission of intended investigation shall be assumed unless the application filed under RSA 482-A:3 was signed by the conservation commission, or, if one has not been established in the municipality, by the local governing body, in which case the provisions of subparagraph (a) shall not apply.*

272:19 Effective Date. This act shall take effect upon its passage.

(Approved: May 18, 2002)

(Effective Date: May 18, 2002)



CHAPTER 210

HB 1252 - FINAL VERSION

6mar02...2690h

04/10/02 3287s

2002 SESSION

01-2334

06/01

HOUSE BILL ***1252***

AN ACT relative to the membership of the wetlands council.

SPONSORS: Rep. Gabler, Graf 8; Rep. Odell, Sull 5; Rep. Camm, Rock 17; Rep. Phinizy, Sull 7

COMMITTEE: Resources, Recreation and Development

AMENDED ANALYSIS

This bill changes the membership of the wetlands council.

-----  
Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

6mar02...2690h

04/10/02 3287s

01-2334

06/01

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Two*

AN ACT relative to the membership of the wetlands council.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

210:1 Wetlands Council: Membership. Amend RSA 21-O:5-a, I and II to read as follows:

I. There is established a wetlands council for the purpose of implementing the provisions of law conferring on the department authority to decide matters relative to resources of the state, including, but not limited to, excavating, dredging, and filling waters of the state. Appointees and officials shall have voting rights as members of the wetlands council; provided, however, that nothing in this section shall be construed as affecting other duties of the department with reference to dams, water levels, and administration of the department of environmental services. The wetlands council shall be composed of the following:

(a) The executive director of the department of fish and game or designee.

(b) The commissioner of transportation or designee.

(c) The commissioner of resources and economic development or designee.

(d) The director of the office of state planning or designee.

(e) The commissioner of the department of ~~[environmental services or designee]~~ **agriculture, markets, and food, or designee.**

(f) The commissioner of safety or designee.

(g) ~~[Six]~~ **Seven** members of the public appointed by the governor and council for a term of 3 years or until a successor is chosen. One of these shall be a member of a municipal conservation commission at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Commissions; one shall be a supervisor, associate supervisor, former associate supervisor, or former supervisor, of a conservation district at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Association of Conservation Districts; one shall be an elected municipal official at the time of appointment, and be one of 3 nominees submitted by the New Hampshire Municipal Association; **one shall be a natural resource scientist and be one of 3 nominees submitted by the New Hampshire Association of Natural Resource Scientists;** one shall be a member of the ~~[non-marine]~~ construction industry ~~[at the time of appointment, and be nominated by the governor]~~ **and be one of 3 nominees submitted by the Associated General Contractors of New Hampshire;** one shall be a member of the marine ~~[construction]~~ industry ~~[at the time of appointment and be nominated by the governor]~~ **and be one of 3 nominees submitted by the New Hampshire Marine Trades Association;** and one shall have experience in environmental protection and resource management at the time of appointment and be one of 4 nominees submitted, 2 each, by the New Hampshire Audubon Society and the Society for the Protection of New Hampshire Forests. One member of the council shall be elected annually as chairperson by the members of the council.

II. The ~~[6]~~ **7** members appointed under subparagraph I(g) shall be entitled to expenses and \$50 compensation per diem. The other members of the council shall receive no additional compensation for their service as members of the council, other than their regular salaries from their respective state departments, but shall receive mileage and other expenses paid at the rate set for state employees.

210:2 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 16, 2002)

(Effective Date: July 15, 2002)

CHAPTER 236

HB 1344-LOCAL - FINAL VERSION

6mar02...2731h

04/16/02 3469s

2may02...3676cofc

2may02...3786eba

2002 SESSION

01-2335

06/01

HOUSE BILL ***1344-LOCAL***

AN ACT establishing a village plan alternative subdivision in zoning and land use planning laws.

SPONSORS: Rep. Mirski, Graf 12

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill establishes the village plan alternative subdivision in zoning and land use planning. Village plan alternative subdivision grants a developer or owner of land the option to develop a limited portion of the property in an expedited manner and without certain dimensional requirements while keeping the major portion of the property in agriculture, forestry, conservation, or public use.

-----

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

6mar02...2731h

04/16/02 3469s

2may02...3676cofc

2may02...3786eba

01-2335

06/01

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Two*

AN ACT establishing a village plan alternative subdivision in zoning and land use planning laws.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

236:1 New Subparagraph; Innovative Land Use Controls; Village Plan Alternative Added. Amend RSA 674:21, I by inserting after subparagraph (m) the following new subparagraph:

(n) Village plan alternative subdivision.

236:2 New Paragraph; Village Plan Alternative Defined. Amend RSA 674:21 by inserting after paragraph V the following new paragraph:

VI.(a) In this section, "village plan alternative" means an optional land use control and subdivision regulation to provide a means of promoting a more efficient and cost effective method of land development. The village plan alternative's purpose is to encourage the preservation of open space wherever possible. The village plan alternative subdivision is meant to encourage beneficial consolidation of land development to permit the efficient layout of less costly to maintain roads, utilities, and other public and private infrastructures; to improve the ability of political subdivisions to provide more rapid and efficient delivery of public safety and school transportation services as community growth occurs; and finally, to provide owners of private property with a method for realizing the inherent development value of their real property in a manner conducive to the creation of substantial benefit to the environment and to the political subdivision's property tax base.

(b) An owner of record wishing to utilize the village plan alternative in the subdivision and development of a parcel of land, by locating the entire density permitted by the existing land use regulations of the political subdivision within which the property is located, on 20 percent or less of the entire parcel available for development, shall provide to the political subdivision within which the property is located, as a condition of approval, a recorded easement reserving the remaining land area of the entire, original lot, solely for agriculture, forestry, and conservation, or for public recreation. The recorded easement shall limit any new construction on the remainder lot to structures associated with farming operations, forest management operations, and conservation uses. Public recreational uses shall be subject to the written approval of those abutters whose property lies within the village plan alternative subdivision portion of the project at the time when such a public use is proposed.

(c) The village plan alternative shall permit the developer or owner to have an expedited subdivision application and approval process wherever land use and subdivision regulations may apply. The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision. Existing zoning and subdivision regulations relating to emergency access, fire prevention, and public health and safety concerns including any setback requirement for wells, septic systems, or wetland requirement imposed by the department of environmental services shall apply to the developed portion of a village plan alternative subdivision, but lot size regulations and dimensional requirements having to do with frontage and setbacks measured from all new property lot lines, and lot size regulations, as well as density regulations, shall not apply. The total density of development within a village plan alternate subdivision shall not exceed the total potential development density permitted a conventional subdivision of the entire original lot unless provisions contained within the political subdivision's land use regulations provide a basis for increasing the permitted density of development within a village plan alternative subdivision. In no case shall a political subdivision impose lesser density requirements upon a village plan alternative subdivision than the density requirements imposed on a conventional subdivision.

(d) Within a village plan alternative subdivision, the exterior wall construction of buildings shall meet or exceed the requirements for fire-rated construction described by the fire prevention and building codes being enforced by the state of New Hampshire at the date and time the property owner of record files a formal application for subdivision approval with the political subdivision having jurisdiction of the project. Exterior walls and openings of new buildings shall also conform to fire protective provisions of all other building codes in force in the political subdivision. Wherever building code or fire prevention code requirements for exterior wall construction appear to be in conflict, the more stringent building or fire

prevention code requirements shall apply.

(e) If the total area of a proposed village plan alternative subdivision including all roadways and improvements does not exceed 20 percent of the total land area of the undeveloped lot, and if the proposed subdivision incorporates the total sum of all proposed development as permitted by local regulation on the undeveloped lot, all existing and future dimensional requirements imposed by local regulation, including lot size, shall not apply to the development.

236:3 Development Restrictions Enforceable; Village Plan Development Added. Amend RSA 674:21-a to read as follows:

674:21-a Development Restrictions Enforceable. Any open space designation or other development restriction which is part of a cluster development, planned unit development, ***village plan alternative subdivision***, or other proposal approved under innovative land use controls, or which is lawfully imposed by a local land use board as a condition of subdivision, site plan, variance, or other type of approval, and which has been filed in the records of the local land use board in accordance with its established procedure, shall be deemed to create a conservation restriction as defined in RSA 477:45, I, which shall run with the land, and shall be enforceable by the municipality, or by the owner of any property which would be specially damaged by the violation of such restriction, regardless of whether any deed or other instrument conveying such restriction has been executed or recorded. For purposes of this section, an applicant's statement of intent to restrict development, submitted with or contained in an application which is subsequently approved, shall be deemed a condition of the approval.

236:4 New Subparagraph; Subdivision Regulations; Village Plan Alternative Development Added. Amend RSA 674:36, II by inserting after subparagraph (k) the following new subparagraph:

(l) Provide for efficient and compact subdivision development which promotes retention and public usage of open space and wildlife habitat, by allowing for village plan alternative subdivision as defined in RSA 674:21, VI.

236:5 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 17, 2002)

(Effective Date: July 16, 2002)

CHAPTER 263

SB 451 - FINAL VERSION

3/21/02 3053s

17apr02...3328h

5/2/02 3751eba

2002 SESSION

02-3181

06/09

SENATE BILL ***451***

AN ACT relative to the shoreland protection act.

SPONSORS: Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23; Sen. Disnard, Dist 8; Rep. Babson, Carr 5; Rep. Lovett, Graf  
6

COMMITTEE: Public Affairs

AMENDED ANALYSIS

This bill makes certain changes to RSA 483-B, the Comprehensive Shoreland Protection Act.

-----

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

3/21/02 3053s

17apr02...3328h

5/2/02 3751eba

02-3181

06/09

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Two*

AN ACT relative to the shoreland protection act.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

263:1 New Paragraph; Purpose; Natural Woodland Buffer. Amend RSA 483-B:1 by inserting after paragraph I the following new paragraph:

I-a. A natural woodland buffer, consisting of trees and other vegetation located in areas adjoining public waters, functions to intercept surface runoff, wastewater, subsurface flow, and deeper groundwater flows from upland sources and to remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants and to moderate the temperature of the near-shore waters.

263:2 Definitions; Accessory Structure. RSA 483-B:4, II is repealed and reenacted to read as follows:

II. "Accessory structure" means a structure, as defined in paragraph XXII of this section, on the same lot and customarily incidental and subordinate to the primary structure, as defined in paragraph XIV of this section; or a use, including but not limited to paths, driveways, patios, any other improved surface, pump houses, gazebos, woodsheds, garages, or other outbuildings.

263:3 Definitions; Lot of Record. Amend RSA 483-B:4, VIII to read as follows:

VIII. "Lot of record" means a ***legally created*** parcel, the plat or description of which has been recorded at the registry of deeds for the county in which it is located.

263:4 Definitions; Primary Structure. RSA 483-B:4, XIV is repealed and reenacted to read as follows:

XIV. "Primary structure" means a structure as defined in paragraph XXII of this section that is central to the fundamental use of the property and is not accessory to the use of another structure on the same premises.

263:5 New Paragraphs; Definitions; Repair; Replace in Kind; Replacement System. Amend RSA 483-B:4 by inserting after paragraph XVIII the following new paragraphs:

XVIII-a. "Repair" means work conducted to restore an existing, legal structure by partial replacement of worn, broken, or unsound parts or to fix a specific defect, during which all of the exterior dimensions are intact and remain so during construction.

XVIII-b. "Replace in kind" means the substitution of a new structure for an existing legal structure, whether in total or in part, with no change in size, dimensions, footprint, interior square footage, and location, with the exception of changes resulting in an increase in the setback to public waters.

XVIII-c. "Replacement system" means a septic system that is not considered new construction under RSA 485-A:29-44 and rules adopted to implement it.

263:6 New Paragraph; Definitions; Shoreland Frontage. Amend RSA 483-B:4 by inserting after paragraph XX the following new paragraph:

XX-a. "Shoreland frontage" means the average of the distances of the actual natural shoreline footage and a straight line drawn between property lines.

263:7 New Paragraph; Definition; Water Dependent Structure. Amend RSA 483-B:4 by inserting after paragraph XXV the following new paragraph:

XXVI. "Water dependent structure" means a structure that services and supports activities that require direct access to, or contact with the water, or both, as an operational necessity and that requires a permit under RSA 482-A, including but not limited to a dock, wharf, pier, breakwater, beach, boathouse, retaining wall, or launching ramp.

263:8 Prior Approval; Permits; Subdivision. Amend RSA 483-B:6, I(e) to read as follows:

(e) Subdivide land [~~for residential or non-residential development~~] as described in RSA 483-B:9, V(d) and (e) shall obtain approval pursuant to RSA 485-A:29.

263:9 Shoreland Protection; Natural Woodland Buffer; Septic Systems; Erosion and Siltation; Minimum Lots; Common Owners. RSA 483-B:9, V is repealed and reenacted to read as follows:

V. The following minimum standards shall apply to the protected shoreland provided that forest management not associated with shoreland development or land conversion, and conducted in compliance with RSA 227-J:9; forestry involving water supply reservoir watershed management; or agriculture conducted in accordance with best management practices; shall be exempt from the provisions of this chapter:

(a) NATURAL WOODLAND BUFFER.

(1) Where existing, a natural woodland buffer shall be maintained within 150 feet of the reference line. The purpose of this buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland.

(2) Within the natural woodland buffer of the protected shoreland under conditions defined in RSA **483-B:9**, V, all of the following prohibitions and limitations shall apply:

(A) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20-year period. A healthy, well-distributed stand of trees, saplings, shrubs, ground cover, and their living, undamaged root systems shall be left in place.

(B) Any person applying to the department for a septic system construction approval or alteration of terrain permit pursuant to RSA 485-A, or an excavating and dredging permit pursuant to RSA 482-A, within the protected shoreland shall include photographic documentation of the natural woodland buffer.

(C) Structures, as defined in RSA 483-B:4, XXII, within the natural woodland buffer shall be afforded an opening for building construction that shall be excluded when computing the percentage limitations under subparagraph (a)(2)(A).

(D) Dead, diseased, unsafe, or fallen trees, saplings, shrubs, or ground cover may be removed. Their removal shall not be used in computing the percentage limitations under subparagraph (a)(2)(A).

(E) Stumps and their root systems, which are located within 50 feet of the reference line, shall be left intact in the ground, unless removal is specifically approved by the department under RSA 482-A.

(F) Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged.

(G) Planting efforts that are beneficial to wildlife are encouraged.

(b) SEPTIC SYSTEMS.

(1) All new lots, including those in excess of 5 acres, created within the protected shoreland are subject to subdivision approval by the department of environmental services under RSA 485-A:29.

(2) The following conditions, based on the characteristics of the receiving soil as they relate to U.S. Department of Agriculture, Natural Resources Conservation Service drainage classes, shall dictate the setback



requirements for all new leaching portions of new septic systems, as follows:

(A) Adjacent to ponds, lakes, estuaries, and the open ocean.

(i) Where the receiving soil downgradient of the leaching portions of a septic system is a porous sand and gravel material with a percolation rate equal to or faster than 2 minutes per inch, the setback shall be at least 125 feet from the reference line;

(ii) For soils with restrictive layers within 18 inches of the natural soil surface, the setback shall be at least 100 feet from the reference line; and

(iii) For all other soil conditions, the setback shall be at least 75 feet from the reference line.

(B) Adjacent to rivers the setback shall be no less than 75 feet.

(3) The placement of all septic tanks and leaching portions of septic systems for replacement systems shall comply with the requirements of subparagraph (b)(2), to the maximum extent feasible.

(c) EROSION AND SILTATION.

(1) All new structures, modifications to existing structures, and excavation or earth moving within protected shoreland shall be designed and constructed in accordance with rules adopted by the department under RSA 541-A for terrain alteration under RSA 485-A:17, to manage stormwater and control erosion and sediment, during and after construction.

(2) New structures and all modifications to existing structures within the protected shoreland shall be designed and constructed to prevent the release of surface runoff across exposed mineral soils.

(3) A permit under RSA 485-A:17, I shall be required for improved, developed, or subdivided land whenever there is a contiguous disturbed area exceeding 50,000 square feet that is either partially or wholly within protected shoreland.

(d) MINIMUM LOTS AND RESIDENTIAL DEVELOPMENT. In the protected shoreland:

(1) The minimum size for new lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as established by the department of environmental services under RSA 485-A and rules adopted to implement it.

(2) For projects in areas dependent upon on-site sewage and septic systems, the total number of residential units in the protected shoreland, whether built on individual lots or grouped as cluster or condominium development, shall not exceed:

(A) One unit per 150 feet of shoreland frontage; or

(B) For any lot that does not have direct frontage, one unit per 150 feet of lot width as measured parallel to the shoreland frontage that lies between the lot and the reference line.

(3) No lot dependent upon an on-site septic system, having frontage on public waters, shall be created with less than 150 feet of shoreland frontage.

(4) Lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards, and shall not be subject to any shoreland frontage requirement, except as provided by municipal standards.

(5) Lots and residential units outside of the protected shoreland shall not be subject to this chapter.

(e) MINIMUM LOTS AND NON-RESIDENTIAL DEVELOPMENT. In the protected shoreland:

(1) The minimum size for new non-residential lots in areas dependent upon on-site septic systems shall be determined by soil type lot size determinations, as set forth under rules adopted under RSA 541-A.

(2) Non-residential development requiring on-site water, sewage, and septic systems shall not be constructed on lots less than 150 feet in width.

(3) Non-residential lots in areas serviced by municipal sewers shall conform to municipal minimum lot standards.

(4) Non-residential lots outside of the protected shoreland shall not be subject to this chapter.

(f) COMMON OWNERS AND RESIDENTIAL OR NON-RESIDENTIAL DEVELOPMENT. In the protected shoreland, waterfront parcels held in common by one or more owners of contiguous interior parcels may be developed, but only in a manner consistent with the provisions of this chapter. Care shall be taken for the adequate provision of parking, toilet facilities, and related support systems to minimize the project's impact on the public waters.

(g) The commissioner shall have the authority to grant variances from the minimum standards of this section. Such authority shall be exercised subject to the criteria which govern the grant of a variance by a zoning board of adjustment under RSA 674:33, I(b).

263:10 Nonconforming Structures. Amend RSA 483-B:11 to read as follows:

**483-B:11** Nonconforming Structures.

I. Except as otherwise prohibited by law, ~~[pre-existing]~~ nonconforming structures, ***erected prior to July 1, 1994***, located within the protected shoreland may be repaired, ~~[improved]~~ ***renovated***, or ~~[expanded]~~ ***replaced in kind using modern technologies, provided the result is a functionally equivalent use. Such repair or replacement may alter the interior design or existing foundation, but no expansion of the existing footprint or outside dimensions shall be permitted.*** An expansion that increases the sewerage load to an on-site septic system, ~~[for example, additional bedrooms,]~~ ***or changes or expands the use of a septic system or converts a structure to condominiums or any other project identified under RSA 485-A:29-44 and rules adopted to implement it*** shall require approval by the department. Between the primary building line and the reference line, no alteration shall extend the structure closer to the public water, except that the addition of ~~[an open]~~ ***a*** deck or ***open*** porch is permitted up to a maximum of 12 feet towards the reference line.

II. When reviewing requests for the redevelopment of sites that ~~[currently]~~ contain nonconforming structures ***erected prior to July 1, 1994***, the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the ~~[existing]~~ standards ***specified in RSA 483-B:9***, so long as there is at least the same degree of protection provided to the public waters. ***For the purposes of this section, a proposal that is "more nearly conforming" means a proposal for significant changes to the location or size of existing structures that bring the structures into greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection.***

263:11 New Paragraphs; Rulemaking; Woodland Buffer, Terrain Alterations, and Definitions Added. Amend RSA 483-B:17 by inserting after paragraph VI the following new paragraphs:

VII. Criteria governing maintaining a healthy, well-distributed stand of trees, saplings, shrubs and ground covers.

VIII. A methodology for identifying unsafe trees.

IX. Defining the opening for building construction.

X. Definitions of terms not defined in this chapter.

263:12 Applicability. Amend RSA 483-B:19 to read as follows:

**483-B:19** Applicability.

***I. Subject to paragraph II,*** the provisions of this chapter shall not apply to any applicant whose land is in a municipality that has adopted a shoreland protection ordinance under RSA 674:16, the provisions of which are at least as stringent as similar provisions in this chapter. The director of the office of state planning shall certify to the commissioner that the provisions of a local ordinance are at least as stringent as similar provisions in this chapter.

***II. If a municipality has a local ordinance that does not contain a counterpart to all of the provisions of this chapter, the more stringent provisions shall apply.***

263:13 Contingent Renumbering. If SB 452 of the 2002 legislative session becomes law, RSA 483-B:4, XVIII-(a) - XVIII-(c) as inserted by section 5 of this act shall be renumbered as RSA 483-B:4, XVIII-(b) - XVIII-(d).

263:14 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 18, 2002)

(Effective Date: July 17, 2002)

CHAPTER 169

SB 452 - FINAL VERSION

3/21/02 3043s

17apr02...3394h

2002 SESSION

02-3182

06/09

SENATE BILL **452**

AN ACT relative to fines for violations of the shoreland protection act.

SPONSORS: Sen. Johnson, Dist 3; Sen. Below, Dist 5; Sen. Hollingworth, Dist 23; Rep. Babson, Carr 5; Rep. Lovett, Graf 6

COMMITTEE: Environment

ANALYSIS

This bill:

I. Defines "repeat violation" under the Comprehensive Shoreland Protection Act.

II. Requires the commissioner of the department of environmental services to impose an administrative fine for each violation.

III. Allows the administrative fine to be multiplied by a factor of 2 for every previous violation committed by the same person or entity.

-----

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

3/21/02 3043s

17apr02...3394h

02-3182

06/09

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Two*

AN ACT relative to fines for violations of the shoreland protection act.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

169:1 New Paragraph; Definition; "Repeat Violation." Amend RSA 483-B:4 by inserting after paragraph XVIII the following new paragraph:

XVIII-a. "Repeat violation" means a violation that occurs within 3 years of notification by the department of a prior violation, as defined in RSA 483-B:18, I, whether on the same site or by the same person or entity on a second site. Each day of continuing violation after notification of that violation shall be considered a repeat violation.

169:2 Comprehensive Shoreland Protection Act; Penalties. Amend RSA 483-B:18, III(c) to read as follows:

(c) The commissioner, after notice and hearing pursuant to RSA 541-A, [~~may~~] **shall** impose an administrative fine of up to \$5,000 for each offense upon any person who violates this chapter. Rehearings and appeals relating to such fines shall be governed by RSA 541. Imposition of an administrative fine under this section shall not preclude the imposition of further civil or criminal penalties under this chapter.

***(d) Notwithstanding the \$5000 fine limit in subparagraph (c), the administrative fine for each repeat violation of this chapter may be multiplied by a factor of 2 for every previous violation committed by the person or entity.***

169:3 Effective Date. This act shall take effect January 1, 2003.

(Approved: May 15, 2002)

(Effective Date: January 1, 2003)

CHAPTER 114

SB 453 - FINAL VERSION

3/21/02 3063s

2002 SESSION

02-3183

06/01

SENATE BILL ***453***

AN ACT relative to setbacks in the shoreland protection act.

SPONSORS: Sen. Johnson, Dist 3; Sen. Hollingworth, Dist 23; Sen. Disnard, Dist 8; Rep. Babson, Carr 5; Rep. Lovett, Graf  
6

COMMITTEE: Public Affairs

AMENDED ANALYSIS

This bill reestablishes the set back line for primary structures within the protected shoreland and allows a municipality having a lesser setback, established prior to January 1, 2002, to maintain the defined primary building line in that municipality. It also extends the provisions of the Shoreland Protection Act to the Connecticut River.

-----

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

3/21/02 3063s

02-3183

06/01

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Two*

AN ACT relative to setbacks in the shoreland protection act.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

114:1 Siting the Primary Structure Within the Protected Shoreland. RSA 483-B:9, II (b) is repealed and reenacted to read as follows:

(b) Primary structures shall be set back behind the primary building line which is 50 feet from the reference line.

114:2 Applicability. Municipalities having a setback of less than 50 feet prior to January 1, 2002 may maintain the defined primary building line in that municipality.

114:3 Shoreland Protection; Connecticut River Added. Amend RSA 483-B:20 to read as follows:

**483-B:20** Designated Rivers. The provisions of this chapter shall not apply to rivers or river segments designated by the general court and approved for management and protection under RSA 483 prior to January 1, 1993 ***with the exception of the Connecticut River.***

114:4 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 3, 2002)

(Effective Date: July 2, 2002)

# **Appendix E**

## **NHDES WETLANDS PROGRAM**

The New Hampshire Wetlands Council and Its Functions



# Environmental Fact Sheet



WTC-1

2002

---

## The New Hampshire Wetlands Council and Its Functions

### I. Background

**The New Hampshire Wetlands Council (Council) was created to consider:**

- a. **Formal appeals** of final decisions by the New Hampshire Department of Environmental Services' (DES) Wetlands Bureau; and,
- b. **Other matters** brought before it concerning the functions and responsibilities of the Bureau.

### II. Legal authority

- a. The Council's authority is set forth by RSA 21-O:5-a ("Department of Environmental Services/Wetlands Council", [gencourt.state.nh.us/rsa/html/I/21-O/21-O-5-a.htm](http://gencourt.state.nh.us/rsa/html/I/21-O/21-O-5-a.htm)) and RSA 482-A:10, VI ("Fill and Dredge in Wetlands/Appeals", [gencourt.state.nh.us/rsa/html/L/482-A/482-A-10.htm](http://gencourt.state.nh.us/rsa/html/L/482-A/482-A-10.htm)). Its Administrative Rules of Practice and Procedure, designated as NH CODE ADMIN. RULES Env-WtC 200, are found at [www.des.state.nh.us/rules/envwtc200.pdf](http://www.des.state.nh.us/rules/envwtc200.pdf).
- b. **The Council does not consider** appeals of administrative fines (see NH CODE ADMIN. RULES Env-C 614 at [www.des.state.nh.us/wetlands/pdf/env-c614.pdf](http://www.des.state.nh.us/wetlands/pdf/env-c614.pdf)). Such appeals are made directly to the Commissioner of DES, with final appeal to the New Hampshire Supreme Court (see [www.state.nh.us/courts/supreme.htm](http://www.state.nh.us/courts/supreme.htm)).

**III. It is critically important that appellants, and those seeking hearings before the Council, strictly comply with the schedule and deadlines for Council proceedings set forth in this fact sheet (see chart and table attached). Failure to do so will result in the Council being unable to consider your appeal or to hold a hearing on other matters.**

### IV. Under the Council's rules, it conducts –

- a. **Formal adjudicatory hearings** of appeals of dredge and fill permits and

related enforcement orders; and,

- b. **Less formal non-adjudicatory hearings** to consider other matters concerning the functions and responsibilities of the Wetlands Bureau.

**V. With regard to formal appeals of permit denials, the Council can only consider:**

- a. Permit denials that have properly completed the formal reconsideration process required by the Wetlands Bureau's rules (see [Env-C 200 "Rules of Practice and Procedure"](#)), and which strictly comply with the schedule and deadlines prescribed in this fact sheet; and then only,
- b. Whether or not the Wetlands Bureau permit or enforcement decision was unlawful or unreasonable based on the application's record before the Wetlands Bureau. Because the Council is not a permitting authority, it cannot rewrite or reissue permits, orders, or rules. It can only instruct the Wetlands Bureau as to what aspects of its decision were unlawful or unreasonable in a given appeal, or in a particular matter brought before it.

**VI. Who can appeal to, or be heard before, the Council?**

- a. Virtually anyone with an issue related to wetlands can file an appeal to, or be heard before, the Wetlands Council.
- b. For permit appeals: Those who can be heard generally include the person to whom the underlying application, permit, or order was issued, the owner of the effected property, the local municipal governing body, planning board, and conservation commission, all known landowners (including those with flowage rights) directly abutting the effected property, or nearby owners along a waterfront that, by the shoreline's configuration, brings non-contiguous owners into close proximity. Additionally, any person whose rights may be directly affected by the outcome of the appeal is entitled to intervene in an appeal.
- c. For public hearings: Those who can come before the Council generally include any person with a non-permit-specific question regarding the functions, responsibilities, policies, procedures, or rulemaking activities of the Bureau.

**VII. When can one appeal a Bureau permit or enforcement decision?**

- a. Any person affected by a permit decision or enforcement action taken by the Bureau may apply for reconsideration by the Bureau **within 20 days**.
- b. Appeals to the Council may only commence after the reconsideration process with the Bureau has been exhausted.
- c. **Appeals to the Council must be filed within 30 days from the date of the Bureau's reconsideration decision.**
- d. A pre-hearing conference may be held at the appealing party's or Council's request.
- e. If no settlement is reached at the pre-hearing conference, **the Council will hear the appeal no later than 90 days from the next regularly scheduled Council meeting.**

**VIII. How to request a public hearing**

1. Any person with a non-permit-specific question or problem concerning the functions, responsibilities, policies, procedures, or rulemaking activities of the Bureau may apply to the Council for a public hearing by following the process noted above and outlined in detail in RSA 482-A:10 ( ["Fill and Dredge in Wetlands/Appeals"](#)).
2. Prior to any public hearing, a pre-hearing conference must be convened between the interested parties and the Council.
3. If no resolution is reached at the pre-hearing conference, **the Council will conduct a public hearing on the matter no later than 90 days from the next regularly scheduled Council meeting.**

## **IX. Appeals Process**

- a. The appeals process does not require that a lawyer be retained to adequately represent an appellant's interests, but any party may elect to file legal briefs, motions, or legal memoranda during the appeal, all of which should be submitted to the Council in quadruplicate.
- b. A copy of the Petition for Appeal and any legal brief or memorandum must also be sent by certified mail, or hand-delivered to the Council Clerk's office, DES Commissioner, Wetlands Bureau, and Water Division to be properly and timely filed.
- c. Other parties wishing to file replies or motions to dismiss must do so **within 15 days from the service date of the petition.**
- d. If the person filing the appeal wishes to respond to written motions, he/she must do so **no later than 5 days after receipt of the motion.**
- e. To be successful, the person filing the appeal must submit a written memorandum that summarizes the pertinent facts, sets forth all legal arguments that support the appeal, and concisely describes the reasons for which the Bureau's decision is considered as "unlawful" and/or "unreasonable."
- f. This memorandum must be filed with the Council Clerk **within 30 days from the date the Petition for Appeal was mailed.**
- g. The Bureau then has **30 days from that delivery date** to file its written memorandum that addresses each salient point in rebuttal.

## **X. Composition of Appeal Petitions**

- a. The filing of a Petition for Appeal to the Council must include specific information to enable it to be properly received and acted upon in a timely manner. Remember that the person filing the appeal bears the burden of proving that the Bureau's decision was unlawful or unreasonable. These items include:
  - i. The name and address of the person who is filing the appeal.
  - ii. A detailed description of the land involved, including its address and a copy of the site plan.
  - iii. Identification of the specific Bureau decision or order being challenged by listing the names of the parties, permit number, order number, or file number (as appropriate).
  - iv. A clear and concise statement of the type of relief sought (*i.e.*, the expected outcome from the appeal by the appellant).
  - v. A list of all specific reasons that serve to demonstrate that the Bureau's

- decision was either unlawful or unreasonable in the view of the appellant.
- vi. A concise statement of the facts upon which the Council is being asked to rely, and upon which it must ultimately rule.
  - vii. A brief statement of the issues to be presented to the Council.
  - viii. Certification that a copy of the petition has been properly delivered to all interested parties, exhibiting the date it was sent (*i.e.*, the "service date"), the appropriate address, and how it was delivered (*i.e.*, either by hand or certified mail).

## **XI. Composition of a Request for a Public Hearing**

- a. A formal Request for a Public Hearing must contain specific information to enable it to be properly received and acted upon in a timely manner. The following considerations should be addressed within such a request to the Council:
  - i. The name and address of the person who is filing the request.
  - ii. A detailed description of the specific Bureau function, responsibility, policy, procedure, or rulemaking activity that is being challenged.
  - iii. A clear and concise statement of the type of relief sought, specifying every reason as to why the Bureau's particular function, responsibility, policy, procedure, or rulemaking activity is being characterized as either unlawful or unreasonable.
  - iv. A concise statement of the facts upon which the Council will be asked to rely, and upon which it must ultimately rule.
  - v. A brief statement of the issues to be presented to the Council at the hearing, if this request is successful.
  - vi. A complete list of all interested parties who have, or may have, a direct or indirect interest in the subject matter for this proposed hearing.

## **XII. Council Action on Receipt of an Appeal or Hearing Request**

- a. The Clerk of the Council will review all Petitions for Appeal and Requests for Public Hearing for completeness and will notify the person filing the appeal or request of any deficiencies **within 15 days of receipt**.
- b. If complete, the Clerk of the Council will notify the appellant or other requesting person in writing as to the date, time, and place of any pre-hearing conference or hearing to be held, as well as highlight the issues to be considered by the Council at those meetings.
- c. The Bureau will copy and forward two copies of the certified copy of the record related to each appeal or public hearing to the Council **within 15 days from the date of acceptance by the Council for the Petition for Appeal or from the date the Council grants the Request for Public Hearing**.

## **XIII. Pre-Hearing Conferences**

- a. At the request of any party to the proceeding, a pre-hearing conference **may** be held to discuss the issues related to a Petition for Appeal.
- b. A pre-hearing conference for a Request for Public Hearing must be held before proceeding to the full Council for testimony and deliberations.

- c. The pre-hearing conferences create an opportunity for all parties to discuss and clarify issues, provide the basis for a possible settlement or resolution based on good faith negotiations, and address motions filed or other procedural matters with the Council.

#### **XIV. Scope of Hearings Before the Council**

- a. During **appeal hearings**, parties are only entitled to present information to the Council that is directly related to those matters specific to the certified record of the file.
  - i. No **new** information can be provided or accepted by any parties to the appeal. For example, when an appeal is brought before the Council relative to a Bureau permit decision, the Council can only consider information that is already contained in the certified record of the file, as it existed at the time the Bureau made its decision.
  - ii. For this reason, it is important for all parties in any appeal ensure that all relevant information and issues are brought to the Bureau's attention, either in the initial application phase, or during the Bureau's period for reconsideration of the decision, order, or activity.
- b. During hearings for non-appeal matters, the Council can receive any information related to the subject of the hearing deemed necessary by those requesting the hearing for which the parties at the mandatory pre-hearing conference have agreed upon for presentation.
- c. During **hearings for non-appeal matters**, the Council can receive any information related to the subject of the hearing deemed necessary by those requesting the hearing for which the parties at the mandatory pre-hearing conference have agreed upon for presentation.
  - i. During the course of a hearing, an appellant (or other party that requested the hearing) is provided with 30 minutes during which to present his/her case to the Council through oral arguments and selected exhibits from the certified record of the file.
  - ii. Following that, the Bureau is provided 30 minutes to present its oral arguments and justification for its action in the case.
  - iii. All other parties to the hearing are allowed to address the Council for five minutes each.
  - iv.
  - v. During the proceedings, only the presiding officer and Council members are permitted to ask questions of those who are providing the oral arguments.
  - vi. No cross-examination is allowed.

#### **XV. Council Decisions**

- a. Once the Council has arrived at a decision in response to an appeal, it does not become final until it is issued to the appellant in written form.
  - i. Appellants may then file motions for reconsideration **within 20 days from the date of the Council's written decision**.
  - ii. Parties may appeal the Council's final decision **within 30 days** to the Superior Court for the county in which the property is located.

- b. Once the Council has reached a final decision on a public hearing, it is limited to issuing written advisory opinions and recommendations to the Commissioner of the Department of Environmental Services.
  - i. Parties involved in a public hearing may file a motion for reconsideration of a Council advisory opinion or recommendation **within 20 days of its issuance**.
  - ii. No appeal to the Superior Court is available as part of this process.

## **XVI. Important Contacts**

Clerk of the Wetlands Council  
New Hampshire Department of  
Environmental Services  
6 Hazen Drive  
P. O. Box 95  
Concord, NH 03302-0095  
Telephone at (603) 271-6072  
Fax at (603) 271-8805  
Email at [legal@des.state.nh.us](mailto:legal@des.state.nh.us)

Harry T. Stewart, P.E.  
Director  
Water Division  
New Hampshire Department of  
Environmental Services  
6 Hazen Drive  
P. O. Box 95  
Concord, NH 03302-0095  
Telephone at (603) 271-3434  
Fax at (603) 271-2982  
Email at [hstewart@des.state.nh.us](mailto:hstewart@des.state.nh.us)

Commissioner  
New Hampshire Department of  
Environmental Services  
6 Hazen Drive  
P. O. Box 95  
Concord, NH 03302-0095  
Telephone at (603) 271-3449  
Fax at (603) 271-2867  
Email at [hvezina@des.state.nh.us](mailto:hvezina@des.state.nh.us)

Collis Adams, P. E.  
Administrator  
Wetlands Bureau  
New Hampshire Department of  
Environmental Services  
6 Hazen Drive  
P. O. Box 95  
Concord, NH 03302-0095  
Telephone at (603) 271-2147  
Fax at (603) 271-6588  
Email at [cadams@des.state.nh.us](mailto:cadams@des.state.nh.us)

---

See attached table entitled "[\*\*Appeals Process/Time-Critical Steps\*\*](#)" and process flowchart entitled "[\*\*Wetlands Permit and Appeals Process\*\*](#)."

## New Hampshire Wetlands Application and Appeals Process

### Wetlands Bureau

1. Original and 4 copies of permit application filed with municipal clerk.

2. Clerk sends original to DES with application fee, and sends a copy to the local governing body, planning board, and conservation commission; keeps one copy for public review.

3. Conservation commission may file notice with DES (within 14 days of filing with the Clerk) that it intends to investigate the application - maximum 40-day "hold" on the application from the date of filing with the Clerk, unless extended by DES.

4. DES convenes public hearings on projects of significant impact or substantial public interest.

5. Permit decision issued by DES.

6. DES permit decision appealed.

7. Aggrieved party petitions DES for reconsideration within 20 days of the decision (28 days, if a prime wetland is involved).

8. DES has 30 days (unless extended in writing by DES) to grant or deny application for reconsideration.

### Wetlands Council

9. If reconsideration is denied, aggrieved party appeals to Wetlands Council within 30 days of the DES reconsideration decision. Council may either affirm DES decision or remand back to DES.

10. If remanded, DES may comply with Council direction or request reconsideration, followed by possible appeal to Superior Court.

11. If the DES decision is affirmed, the aggrieved party may request a reconsideration by the Council within 20 days of the Council's decision. If DES disagrees with Council decision, it must request a reconsideration of that decision within 20 days. Council must decide whether to accept or deny the request at its next scheduled meeting.

12. If the appellant is not satisfied after the Council's decision on the reconsideration request, the aggrieved party may appeal to the Superior Court within 30 days of the Council's reconsideration decision.

**A "Twelve-Step"  
Progression from Initial  
Wetlands Application to  
Superior Court Appeal**

# Appeals Process/Time-Critical Steps

Wetlands Bureau – Wetlands Council – Superior Court

See <http://gencourt.state.nh.us/rsa/html/L/482-A/482-A-10.htm> and [www.des.state.nh.us/rules/env-c200.pdf](http://www.des.state.nh.us/rules/env-c200.pdf)

See <http://gencourt.state.nh.us/rsa/html/I/21-O/21-O-5-a.htm> and [www.des.state.nh.us/rules/envwtc200.pdf](http://www.des.state.nh.us/rules/envwtc200.pdf)

ACTION	BY WHOM	TIMEFRAME	TO WHOM	“TRIGGER” DATE
Appellant files Petition for Appeal of Bureau decision with Council	Appellant	30 calendar days	Council	Date of Bureau’s reconsideration denial
Clerk of the Council reviews Petition for Appeal for “completeness”/and sets pre-hearing conference date (if Petition is “complete”)	Appellant	15 calendar days	Council Clerk	Receipt date of Petition for Appeal from appellant
Party filing an appearance files reply to appeal or motion to dismiss	Any party	15 calendar days	Council	Service date of the Petition for Appeal
Bureau provides two copies of the certified record to Council	Bureau	15 calendar days	Council	Council acceptance date of Petition for Appeal or Request for Public Hearing
At its next regularly scheduled meeting, Council considers petition and any replies to appeal or motions to dismiss, and may issue order for appeal proceedings	Council	At Council’s next regularly scheduled meeting	All parties	(Not applicable)
Written motions at the hearing	Any party	5 calendar days	Council	Receipt date of the motion
Oral motions at the hearing	Any party	At the hearing	Council	At the hearing
Council upholds Bureau decision/order - issues written decision - appealed	Appellant or Bureau	20 calendar days	Council	Date of Council’s order and written decision
Council finds Bureau’s decision/order “unlawful” and/or “unreasonable” – remands case to Bureau - Bureau appeals for reconsideration of Council’s decision				
Council changes earlier decision – issues new decision/order - further appeal to Council	Council	20 calendar days	Bureau or Appellant	Date of Council’s order and written decision
Council affirms earlier decision – appealed to Superior Court	Bureau or Appellant	30 calendar days	Superior Court	Issuance date of Council’s decision



